

EXHIBIT 1

DEPARTMENT OF THE AIR FORCE
Air Force Court of Criminal Appeals
Bolling Air Force Base, District of Columbia

UNITED STATES)
) Ruling on Motion for
) Declaratory Judgment
 v.)
) 9 February 2009
 Lieutenant Colonel Victor J. Fehrenbach)
 366TH Operational Support Squadron (ACC))
 Mountain Home Air Force Base, Idaho)

1. BACKGROUND:

a. On 12 September 2008, Lieutenant General Norman Seip, Commander, Twelfth Air Force, hereinafter the Show Cause Authority (SCA), initiated administrative discharge action against Lieutenant Colonel Victor J. Fehrenbach, hereinafter the Respondent, requiring the Respondent to show cause why he should be retained on active duty;

b. The administrative discharge action stems from allegations that on 12 May 2008 in Boise City, Idaho, the Respondent engaged in anal sodomy with Mr. CS. After the alleged incident, Mr. CS informed agents with the Air Force Office of Special Investigations (AFOSI) and investigators with the Boise Police Department that the Respondent had raped him. On 14 May 2008, Mr. CS provided a signed, written statement alleging the anal sodomy with the Respondent was non-consensual;

c. On 16 May 2008, Detective Mark Vucinich, an investigator with the Boise Police Department, interviewed the Respondent at the Mountain Home Air Force Base AFOSI office. Only the Respondent and Detective Vucinich were present at this interview. While no one else was present, Detective Vucinich did secretly audio record the interview;

d. At the beginning of the interview, Detective Vucinich: (1) introduced himself; (2) advised the Respondent that he was not under arrest nor would be under arrest at the conclusion of the interview; (3) advised the Respondent that he was not required to answer any questions and that he could leave the interview at anytime; and (4) advised the Respondent that he, Detective Vucinich, was investigating a sexual assault/rape allegation made by Mr. CS;

e. The Respondent asked Detective Vucinich questions about his investigation. Prior to answering the Respondent's questions, Detective Vucinich advised the Respondent of his Miranda rights. After being advised of his Miranda rights, the Respondent waived his rights and agreed to answer Detective Vucinich's questions. During the course of the interview, the Respondent admitted he: (1) reviewed Mr. CS's profile on two Internet websites—Manhunt.com and Gay.com and (2) on the night in question, had caressed, kissed, masturbated, and anally sodomized Mr. CS;

f. On 8 December 2008, the SCA convened a Board of Inquiry (BOI) to make recommendations on whether the Respondent should be retained on active duty;

g. On 28 January 2009, Respondent's counsel filed a motion for declaratory judgment with the legal advisor: (1) asserting that the current administrative discharge action is violative of the Respondent's Fifth Amendment substantive due process rights because

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the discharge action is being initiated in violation of *Witt v. Department of the Air Force*, 527 F.3d 806 (9th Cir.2008) and (2) asking the legal advisor dismiss the administrative discharge proceedings and enjoin the Air Force from discharging the Respondent on the grounds that he engaged in homosexual conduct; and

h. On 4 February 2009, the Government, by written response, opposed the granting of the defense motion for declaratory judgment, averring the legal advisor is without authority to dismiss the Respondent's allegation or terminate the Respondent's administrative discharge proceedings.

2. LAW:

a. Homosexual conduct is grounds for separation from the military services. AFI 36-3206, paragraph 3.3.2;

b. A member will be separated if the member has engaged in, attempted to engage in, or solicited another to engage in a homosexual act or acts unless there are approved further findings that the member has demonstrated that all of the following are true: (1) Such acts are a departure from the member's usual and customary behavior; (2) Such acts under all the circumstances are unlikely to recur; (3) Such acts were not accomplished by use of force, coercion, or intimidation; (4) Under the particular circumstances of the case, the member's continued presence in the Air Force is consistent with the interest of the Air Force in proper discipline, good order, and morale; and (5) The member does not have a propensity or intent to engage in homosexual acts. 10 U.S.C. 654 (b) and AFI 36-3206, paragraph 3.3.3.1;

c. The legal advisor has no authority to dismiss an allegation or to terminate the [administrative discharge] proceedings. AFI 36-3206, paragraph 7.14.8 and AFI 51-602, paragraph 1.2;

d. The irreducible constitutional minimum of standing [for federal judicial review] contains three elements: (1) First, the plaintiff must have suffered an injury in fact—an invasion of a legally protected interest which is (a) concrete and particularized, and (b) actual or imminent, not conjectural or hypothetical; (2) Second, the plaintiff must present a causal connection between the injury and the conduct complained of—the injury has to be fairly traceable to the challenged action of the defendant, and not the result of the independent action of some third party not before the court; and (3) Finally, it must be likely, as opposed to merely speculative, that the injury will be redressed by a favorable decision. *Witt v. Dep't of the Air Force*, 527 F.3d 806, 811-812, 2008 U.S. App. LEXIS 10794, 103 Fair Empl. Prac. Cas. (BNA) 585 (9th Cir. Wash. 2008) citing *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560, 112 S. Ct. 2130, 119 L. Ed. 2d 351 (1992);

e. When the government attempts to intrude upon the personal and private lives of homosexuals, in a manner that implicates the rights identified in *Lawrence v. Texas*, the government must advance an important governmental interest, the intrusion must significantly further that interest, and the intrusion must be necessary to further that interest. This heightened scrutiny analysis is as-applied rather than facial. *Witt v. Dep't of the Air Force*, 527 F.3d at 819;

f. Where no protected liberty interest is implicated, substantive due process challenges are reviewed under the rational basis standard. *Cook v. Gates*, 528 F.3d 42, 49, 2008 U.S. App. LEXIS 12357, 103 Fair Empl. Prac. Cas. (BNA) 826 (1st Cir. Mass. 2008);

g. "The present [*Lawrence*] case does not involve [*inter alia*]...persons who might be injured or coerced...The case does involve two adults who, with *full and mutual consent from each other*, engaged in sexual practices common to a homosexual lifestyle. The petitioners are entitled

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to respect for their private lives. The State cannot demean their existence or control their destiny by making their private sexual conduct a crime. Their right to liberty under the Due Process Clause gives them the full right to engage in their conduct without intervention of the government. *Lawrence v. Texas*, 539 U.S. 558, 578, 123 S. Ct. 2472, 2484, 156 L. Ed. 2d 508, 525-526 (2003) (Emphasis Added); and

h. Congress makes the following findings... There is no constitutional right to serve in the armed forces... The prohibition against homosexual conduct is a longstanding element of military law that continues to be necessary in the unique circumstances of military service... The armed forces must maintain personnel policies that exclude persons whose presence in the armed forces would create an unacceptable risk to the armed forces' high standards of morale, good order and discipline, and unit cohesion that are the essence of military capability...[and]... The presence in the armed forces of persons who demonstrate a propensity or intent to engage in homosexual acts would create an unacceptable risk to the high standards of morale, good order and discipline, and unit cohesion that are the essence of military capability. 10 U.S.C. §654(a)(2)(13-15).

3. FINDINGS OF FACT/DISCUSSION:

a. As the legal advisor, I do not have the authority to dismiss the allegation against the Respondent or to terminate the administrative discharge proceedings against the Respondent. That authority lies with the SCA, the Secretary of the Air Force, and higher authorities;

b. *Witt* clearly holds that federal district and appellate courts have the authority to grant redress for violations of the Respondent's substantive due process rights. If redress is to be granted however it is for these courts to grant. However, to be entitled to redress the Respondent must first have standing. While it is for these courts to decide whether the Respondent has standing to seek redress, it would appear that any claims the Respondent has about a substantive due process violation would be unripe. Unlike the appellant in *Witt*, the Respondent has not had his pay suspended and has not been discharged. In fact, he continues to serve on active duty and continues to receive pay and service credit towards promotion and retirement. Thus, unlike the appellant in *Witt*, he has suffered no injury and would appear to lack standing; and

c. Assuming I have the authority to review the Respondent's substantive due process claims and, upon finding a violation, enter a declaratory judgment, redress is not warranted. First, this case does not implicate the *Lawrence* rights. Notwithstanding the Respondent's version of events, the proffered government evidence, namely Mr. CS's statement, indicates the alleged sexual act was non-consensual, e.g. coerced or forced. Coerced sexual acts do not fall within the penumbra of the *Lawrence* rights. Second, since this case does not implicate the *Lawrence* rights, this case would not be subjected to *Witt's* "as-applied heightened scrutiny analysis" but would rather be subjected to a rational basis analysis. See *Cook v. Gates* holding that where no protected liberty interest is implicated, substantive due process challenges are reviewed under the rational basis standard. *Cook v. Gates*, 528 F.3d 42, 49, 2008 U.S. App. LEXIS 12357, 103 Fair Empl. Prac. Cas. (BNA) 826 (1st Cir. Mass. 2008). On this point, Congress has articulated a substantial government interest for its homosexuality policy, namely maintaining the morale and unit cohesion the military deems essential to an effective fighting force, and this policy is rationally related to achieving this interest.

4. RULING: For the aforementioned reasons, the Respondent's motion for a declaratory judgment is hereby DENIED.

//Original Signed//

GARY M. JACKSON, Colonel, USAF
Legal Advisor

EXHIBIT 2



U.S. Department of Defense
Office of the Assistant Secretary of Defense (Public Affairs)
News Transcript

On the Web:

<http://www.defense.gov/Transcripts/Transcript.aspx?TranscriptID=4592>
Media contact: +1 (703) 697-5131/697-5132

Public contact:

<http://www.defense.gov/landing/comment.aspx>
or +1 (703) 428-0711 +1

Presenter: Secretary of Defense Robert Gates and Joint Chiefs of Staff Chairman Adm. Michael Mullen

**March 25,
2010**

DOD News Briefing with Secretary Gates and Adm. Mullen from the Pentagon

Go to these links to view documents associated with this transcript: http://www.defense.gov/news/DoDI_1332_14_-_REVISIONS_032510.pdf
http://www.defense.gov/news/DoDI_1332_30_-_REVISIONS_032510.pdf
http://www.defense.gov/news/Summary_of_Changes_DADT.pdf

SEC. GATES: Good morning.

I have an announcement this morning on changes in regulations with respect to "Don't Ask, Don't Tell." At the end of the briefing, the general counsel of the department, Jeh Johnson, will be available if there are specific questions or interpretations that are needed, and then Jeh will brief again or be available again at one o'clock.

In February, I established a high-level working group to review the issues associated with implementing a repeal of "Don't Ask, Don't Tell" law and to develop recommendations for implementation, should the law change.

At the same time I directed the department to conduct a review of how the military implements the current policy and within 45 days present to me recommended changes that would enforce the existing law in a fairer and more appropriate manner.

Today, I have approved a series of changes to the implementation of the current statute. They were developed with the full participation of the department's senior civilian and military leadership, and the changes are unanimously supported by Chairman Mullen, Vice Chairman Cartwright and the entire Joint Chiefs of Staff.

The department's general counsel, Jeh Johnson, and the Justice Department's Office of Legal Counsel have also concluded that these changes are consistent with the existing "Don't Ask, Don't Tell" law.

These changes reflect the insights -- some of the insights we have gained over 17 years of implementing the current law, including the need for consistency, oversight and clear standards.

The changes are as follows. We will raise the level of the officer who is authorized to initiate a fact-finding inquiry or separation proceeding regarding homosexual conduct to a general or flag officer in the service member's chain of command. We will raise the level of the person who is authorized to conduct a fact-finding inquiry to the level of lieutenant colonel, Navy commander or above.

We will raise the level of the officer who is authorized to separate an enlisted member to a general or flag officer in the service member's chain of command.

We will revise what constitutes credible information to begin an inquiry or separation proceeding by for example specifying that information provided by third parties should be given under oath and by discouraging the use of overheard statements and hearsay. We will revise what constitutes a reliable person, on whose word an inquiry could be initiated, with special scrutiny on third parties who may be motivated to harm the service member.

Finally certain categories of confidential information will no longer be used in support of discharges including information provided to lawyers, clergy and psychotherapists; information provided to a medical professional, in furtherance of medical treatment, or a public-health official, in the course of a public-health inquiry; information provided in the course of seeking professional assistance, for domestic or physical abuse, and information obtained in the course of security clearance investigations, in accordance with existing Department of Defense policies.

The services will have 30 days to conform their regulations to these changes. Meanwhile, these modifications will take effect immediately and will apply to all open and future cases. In effect, this means that all separations from this point forward will take place under the revised regulations.

I believe these changes represent an important improvement, in the way the current law is put into practice, above all by providing a greater measure of common sense and common decency, to a process for handling what are difficult and complex issues for all involved.

Of course, only Congress can repeal the current "Don't Ask, Don't Tell" statute. It remains the law, and we're obliged to -- obligated to enforce it. At the same time, these changes will allow us to execute the law in a fair and more appropriate manner.

The work of the Department of Defense working group chaired by Mr. Johnson and General Carter Ham continues. As I told the Congress in February, I am determined that we in the department carry out the president's directive on "Don't Ask, Don't Tell" in a professional and thorough way. I look forward to the continued progress of the working group as they undertake their important task in the weeks and months ahead. Thank you.

Anne.

Q Several of the changes that you've outlined today are suggestions that have been made by gay-rights groups for a long time now. Why do this now?

SEC. GATES: Well, I think first and foremost it's because of the change in policy direction given by the president. And when the president gave that direction, it seemed to me that we ought to look at the lessons learned the past 17 years and see if we, between now and when the Congress acts, could apply this, as my statement says, in a fair and more appropriate manner.

Q So what will happen to people who are in the process of being kicked out now based on third-party hearsay, third-party evidence that might be suspect?

SEC. GATES: At this -- as of my signature right after this meeting, every case that is currently still open will be dealt with under these new regulations. So they will be reinitiated by a flag rank officer. A person who is in the process can opt out of that, can in effect say, "I want to be -- I want to have the proceedings carried forward under the new regulations in terms of what kind of information can be allowed, but I don't want to start the whole process over."

But that's up to the service member who is being -- who's involved in the proceedings.

But as far as the system is concerned, as far as the services are concerned, every case that is open as of this morning will be re-initiated and evaluated under the -- under the new regulations that I've just set forth.

Q Secretary -- (inaudible). Do you support -- on the legislative side of things, do you support a legislative change to "Don't Ask, Don't Tell," whether it's a moratorium or outright repeal, this year, before the Pentagon completes its study on the issue?

SEC. GATES: I do not recommend a change in the law before we have completed our study. There is a great deal we don't know about this in terms of the views of our service members, in terms of the views of their families and influencers.

There is a lot we have to address in terms of what would be required in the way of changed regulations, in terms of benefits. There are a lot of unanswered questions in terms of the implementation of this proposed change in the -- change in the law.

I think we need to do this thoroughly and professionally. I think we need to do this right, if you will. And I think doing it hastily is very risky and, I think, does not address some of the concerns that have been expressed by the chiefs of staff, of the services and a number of the questions that have been raised associated with this.

ADM. MULLEN: I would just echo what the secretary said. I think it's very important for us to go through this process. And doing it with haste could easily generate a very bad outcome. So understanding where we are, having that information from those it will affect most, will -- is a very important part of this process.

Q Just a follow-up on that. Is that a view that the White House shares, do you think?

SEC. GATES: You would have to ask them, but I would tell you that my impression is that the president is very comfortable with the process that we've laid out, and certainly with the changes that I've announced today.

Q But if the policy won't be retroactive, is there some way that a service member who was discharged under "Don't Ask, Don't Tell" can try to reenlist? Is there some way that they can appeal to get back into the military -- if they were

discharged under the third party?

SEC. GATES: No.

Q Sir, you're raising the bar for having general officers initiate the proceedings. But recently, we heard from Lieutenant General Mixon, basically criticized -- calling the repeal of the policy ill-advised. What do you think about having general officers comment that way? And are they acting in proper guidelines when they do so?

SEC. GATES: I think that for an active-duty officer to comment on an issue like this is inappropriate. Let me ask the chairman to comment.

ADM. MULLEN: I feel the same way. And actually, it's being addressed, you know, inside the chain of command in the Army. I've spoken with General Casey specifically about this. And General Mixon specifically is -- the issue is being addressed with him. There is an opportunity in this process for -- everyone, from junior to senior, will have an opportunity to comment. And somebody in a leadership position like that, understanding, one, where the president's -- what the president's strategic intent is, clearly, you know, I consider, you know, what -- you know, that letter was -- was not an appropriate letter.

SEC. GATES: And I would -- and I would just -- I would just add that I would feel the same way if it were an entirely different issue.

Q What the Army said is that the JAG had looked at it and that he is within his legal proceedings (sic) to actually write that letter. But when he says so, when he especially says that it's ill-advised, is he criticizing the president?

SEC. GATES: Well, you'd have to ask him.

Q Mr. Secretary, can I change the subject to nuclear weapons?

We've heard a lot about --

SEC. GATES: Big gap, but I'll try to wrap my head around that. (Laughter.)

Q It's also a nuclear issue.

We've been hearing a lot about the new START treaty. But I wanted to ask you about nuclear weapons in Europe. There are several hundred U.S. tactical nuclear weapons in Europe.

What purpose do they serve? And would you be comfortable with a recommendation to eliminate them entirely?

SEC. GATES: Well, first of all, we have had a deterrent in Europe since the beginning of the Cold War. And I think that this is -- this is one of the issues that probably will be addressed in the NATO -- in the revision of the NATO strategic concept, as people look at that. This is a decision that will be made by the alliance as a whole.

Q Thank you, sir. Also on a different topic, the war in Afghanistan.

I'm wondering if you both could comment on, as the pace of operations increases in RC [Regional Command] South -- first in Marja, coming in Kandahar -- are you concerned that the expected increase in allied casualties will affect support for the mission in their home capitals?

I'm thinking in particular of the rather high ratio of the casualties among the U.K. troops. Are you concerned that there will be a slipping of support there?

And also, Mr. Secretary, as a follow-up, when we were with you in Istanbul, you announced a new program to share equipment and ISR [Intelligence, Surveillance and Reconnaissance] with the allies, specifically to protect them. Can you update us on any new progress on that effort?

SEC. GATES: Well, first of all, the -- our allies have been taking significant casualties. In fact if I'm not mistaken, proportionate to the size of the contribution they're making, the Canadians have had the highest casualty rates.

But there have -- there have clearly been a lot of our British colleagues who have fallen. It's also true of the Danes, the Dutch and others who have been in the south with us. I would -- and we all expect the fight to get tougher as we carry out the new campaign plan.

I would say -- I asked General McChrystal in particular about the British casualties because they seemed to be taking serious losses, and his response was that a big part of it is that the British are actually just in the thick of the fight. They're in some of the toughest places in the south.

Now, my hope is that providing our allies with counter-IED training and equipment will help protect their soldiers as

we are working to protect ours, obviously, within the constraints of the law and making sure our troops are taken care of.

But despite these heavy casualties that the various allies have taken, I think that actually has -- as best I can tell, has not been a serious factor in the -- in domestic support or opposition to the war.

But let me ask the admiral.

ADM. MULLEN: I think we've been very clear for months now that this was going to be a very difficult fight in the south and that the expectations -- try to set expectations, as tragic as it is, for these losses. And in particular -- and the secretary, as you indicated by your question, Thom, is -- has again reemphasized the whole area of counter-IED and is there more we can do. So this isn't an issue, from my perspective, of other forces who are ill-equipped, as much as this is a continuing -- a challenge which continues to evolve. And we have to stay on top of it and I believe top leadership has to stay on top of it to make sure we're doing everything we can.

Q Secretary, first of all, there's some -- seems still to be some disagreement with respect to "Don't Ask, Don't Tell" and the year-long review, some disagreement among even congressional members about whether you're studying whether to implement or how to implement repeal. Could you just be clear about that one more time, if the study is looking at whether to implement repeal or how you would actually implement it?

SEC. GATES: The study is about how you would implement it. If the law changes, how would we implement it? This study is not about should we do it. This study is about how would we do it.

And what we need to know in the course of that is the attitudes and feelings on the part of the members of the services and their families and so on. We need to identify where there might be problems or issues or just issues to be addressed, whether it's a change in regulations or benefits or something like that, so that when the time comes we have some idea of what we have to do in order to carry forward with a change.

Q One quick follow. You mentioned that you were going to look into who would be credible in order to provide information about outing someone, but you didn't qualify what a credible person would look like. Do you -- do you have any more specifics about that?

SEC. GATES: Well, let me ask the general counsel to address that with you after the session.

(Off mike)

Q Again, switching topics for a moment, General Petraeus on the Hill a few days ago said that, based on his travels in the Mideast and his conversations with Arab leaders that a lack of progress on the Israel-Palestinian front was raising Iranian influence and making it harder for the U.S. to interact with the friendly Sunni Arab nation. I'd like to ask you both if you share that assessment that, effectively, a lack of progress on the peace talks is harming -- potentially harming U.S. national-security interests.

SEC. GATES: Well, I think that the way I would answer it is that the lack of progress toward a -- toward Middle East peace is clearly an issue that is exploited by our adversaries in the region and is a source of certainly political challenge.

Whether it has a direct impact, I'm not -- I'm not entirely sure. But there is no question that the absence of Middle East peace does affect U.S. national security interests in the region, in my view.

Admiral.

ADM. MULLEN: I would add -- and I've spoken with General Petraeus and actually my counterpart in Israel a couple of times over the last week --and just to, one, reassure in this -- in this discussion right now the strength of the relationship between the two militaries, which is -- which continues to be exceptionally strong.

And certainly in my recent trip out there, there -- the relationship between this was brought to the fore and understood, actually, quite frankly, by everybody. It is a very, very serious issue, and all of us would like to see progress there. And we think it would have a big impact.

And that -- and what the secretary said is, it is in our national interests obviously or we wouldn't be so engaged. So it's an issue that continues to -- we all continue to focus on through a position of strength with our relationship with Israel, certainly from my perspective on the military side.

SEC. GATES: I -- and let me just add a couple of things. First of all, I think the military-to-military relationship with Israel is as strong as it's ever been. But the other point I would make is the United States has considered peace in the Middle East to be a national security interest for decades.

The -- you know, my first tours on the NSC were associated with the aftermath of the Yom Kippur War and the

peace efforts after that and then the Camp David talks.

So the United States government has been deeply engaged in this process for decades. So this isn't exactly a new development.

Q Going to another subject, contractor matters, you were actually quoted in a book about Bill Casey, Joe Persico's book, as saying about Dewey Clarridge, 'if you have a tough, dangerous job critical to national security, Dewey's your man. He's talented, one of our best operations officers. Just make sure you have a good lawyer at his elbow. Dewey's not easy to control.'

Assuming your quote is accurate, sir --

(Laughter.)

SEC. GATES: I knew I shouldn't have written that book. (Laughter.)

Q Assuming your quote is accurate in that book, Mr. Clarridge -- obviously a very public figure in the Iran-Contra scandal of some years ago, now back providing intelligence-contractor and information activities to this department -- do you have a good sense of what he is providing to the U.S. military? And do you have a good lawyer at his elbow? Do you have him under control?

SEC. GATES: I have -- I have no idea what the particulars are. This is the reason that, and associated with the broader matter of whether contractors were doing intelligence collection and so on. That's why I've appointed a small group of people to take a look at this whole matter and get back to me.

My view is that strategic communications, information operations are critical to our efforts around the world and in particular in the wars that we're in.

And -- but I think that there are different elements of the department that are engaged in this, and I don't feel that we have an overall strategy or perhaps adequate oversight of the broader effort that's under way.

And so what I'm trying to get my arms around is -- this particular case that's been described in the newspapers is being looked at by the inspector general, and so I'm less focused on that. That will go on in its own -- in its own channel. But rather, and does this suggest that there are broader problems in terms of oversight in these important areas that need to be corrected? And that's what I'm focused on.

Q But let's just clarify what's a totally different subject. That's the "Don't Ask, Don't Tell." Can you both explain so people understand what did General Mixon do wrong? Because my question is you've both publicly said you want to hear all points of view, you want to hear what people think. So what did he do wrong?

ADM. MULLEN: I think, as a -- as a three-star leader in command, by virtue of just that position alone, he has great influence. And all of us in uniform are obliged to certainly follow the direction of leadership right up to the president. And in fact, there had been very specific -- when the secretary announced a review, there had been very specific direction given by General Casey on how this was going to be approached -- I mean, not verbally, but in fact written. And there's an expectation, obviously, that you would comply with that, or anybody would comply with that.

And in the end, if there is either policy direction that someone in uniform disagrees with -- and I've said this before -- the answer -- and you feel so strongly about it -- you know, the answer is not advocacy; it is in fact to vote with your feet.

And that's what all of us in a position of leadership, I think, have to conform to.

Q Do you believe he needs to leave the military?

ADM. MULLEN: That's a decision that would certainly be up to him.

Q Mr. Secretary --

Q Mr. Secretary there was reporting today that some of the toughest aspects of proposed new sanctions against Iran have been stripped out to get Russia and China on board. Is that a sign that new sanctions may be a failure or worthless? And where does the United States go from here?

SEC. GATES: You know, I think -- I mean, my view -- I don't -- I don't know what the particulars of the Security Council resolution might look like. But I think the -- first of all, it is important to have a U.N. Security Council resolution to reemphasize Iran's isolation, that virtually all of the significant powers have real problems with Iran -- with Iranian behavior and with Iranian policies.

The reality, though, also is that the U.N. Security Council resolution then provides a legal platform for other

organizations and individual countries to take significantly more stringent sanctions, whether it's the European Union or individual countries like the United States or individual countries in Europe. And so I think -- I would see the Security Council resolution as sort of -- the isolation of Iran as being -- and the pointed rebuke of Iran by the Security Council as being the foundation on which further steps could be taken by individual countries.

Q Secretary? Getting back to "Don't Ask, Don't Tell," as you know, the Marine Corps commandant, General Conway, says that he would like to see the law kept as it is.

And he indicated that he worries that if the law is repealed, it will disrupt a force fighting two wars. I'd like you both to comment on that. And are you hearing, you know, privately, concerns from other officers about disrupting the force?

ADM. MULLEN: As I indicated in my testimony and subsequent to that, when asked specifically where the -- where the chiefs were, it was -- there would be an opportunity to have them express their views, and obviously General Conway has done that. We've spent a lot of time on this in the tank prior to any of us testifying. But certainly it wasn't my intent to get in the way of any chief's specific view. They have responsibilities as well.

The honest answer in terms of the disruption issue -- and a couple of chiefs have spoken to that -- but in my all-hand call -- all-hands calls since that time, the honest answer -- this is anecdotal -- but there's been very little of that said back to me specifically either by questions or statements -- quite to the contrary. Most of what I've heard has actually been very supportive of moving in this direction.

Q Mr. Secretary --

Q Secretary, back on Afghanistan. You have said lately that Iran is playing a double role in Afghanistan, on one hand supporting the government in Kabul and on the other hand providing weapons to Taliban. This week, we have new report saying that Iran is giving training to Taliban. To what level do you think the Iranians are involved in Afghanistan, training the Taliban, and how much are you concerned?

SEC. GATES: Based on everything that I've seen, I continue to believe that the Iranians are involved. But it remains at a relatively low level. And we certainly would hope that it stays that way.

Q Mr. Secretary, I had a question about training in Afghanistan. As you know, there's a shortage of trainers in Afghanistan. Why is there no discussion of resetting the expectations in terms of the number of Afghan police and soldiers you can train?

And should that be recalibrated, both the number and the level that the United States should expect and the Afghans themselves should expect, in light of the training shortage?

SEC. GATES: Well, we'll both take a crack at this. I mean, my view is, there has been a significant increase in trainers. We have gotten additional trainers from the Europeans, not as much -- not as many as we would like.

And frankly, I'm -- my inclination is -- not my inclination; I intend to defer to General McChrystal and General Caldwell in terms of their view of the -- of the timing and the sequencing, what they think they can handle in terms of training, how the training is going. The recruitment appears to be going well. Retention and attrition levels within the army seem to be good and pretty close to goals; not so with the police. Those are still issues that need to be addressed. There's just no question; the police are a tougher problem. And -- but I think that there is, first of all, recognition of that, and efforts are under way to address it.

ADM. MULLEN: There had not been -- because of the lack of resourcing, there just hadn't been a lot of trainers provided for the police, which really is the eye of the needle, if you will, in this particular area. And General Caldwell, under General McChrystal's guidance, is putting all that in place, and a structure that just didn't exist before, from recruiting to training to literacy training, et cetera. And it's going to take us a while.

So I recognize it's been a long time. I understand that. But at the same time, in ways we're really starting there. So I think it's just too early to reassess and say the -- we just don't know yet whether the goals are right.

And it really -- we both depend greatly on Caldwell and McChrystal coming in, saying, you know, yes or no. And they just haven't done that.

Q Sir, given the criticality of the police to the efforts to try to rebuild Afghanistan, and given the relatively, you know, low numbers of those that are trained that are staying on the force and the high illiteracy rate, is it time to reassess quite -- how long -- or perhaps better put, could you -- could you give us a better assessment of how long you think U.S. troops are going to be in Afghanistan past July 2011, given the huge gap that appears to be present in the training of the police, and the importance of the police on the ground in trying to maintain security in places like Marja and so forth?

SEC. GATES: Well, there are several aspects to it. First of all, there's the -- there's the national police, there's the border patrol. There are various elements. There are also local security initiatives that are associated with the tribes and

some provincial government. So there are a number of moving parts here in addition to the national police and to the army. And I think, you know, we're just going to have to look at how all of that evolves.

The president's decision that we will begin to turn -- to transition or transfer security responsibility in Afghanistan to the Afghans in July of 2011 stands. But it is also clear -- and he has been explicit -- that transfers subsequently will be based strictly on conditions on the ground. So it would be a serious mistake to rush this and transfer, or begin the transfer of authority before -- and then have to go back and re-fight the fight in a particular -- in a particular area.

So, you know, I think this is a several-year process. But we needed to send a clear signal. The president wanted to send a clear signal -- and I supported it -- that -- to the Afghans, that they also need to step up into this fight.

And I think that the increase in recruitment for both the army and the police is testimony to the fact that they are stepping up and the fact that the Afghans in significant numbers in both the police and in the -- and in the army are paying the price with their lives.

In fact, the police casualties are disproportionate, are -- outweigh those of the army, are greater than those in the army. So I think, you know, we've now been at the president's -- in the president's campaign for four months. We have a third of the surge forces that are going into Afghanistan that are there. This is going to take a little time. Let's not pull everybody up by their roots every week to see if they're growing.

Q Can you give -- okay.

Q Mr. Secretary, are all of the recommendations of the general counsel as to the "Don't Ask, Don't Tell" policy put into place? And if not, why were they eliminated? And were any of them watered down, including the level of the general that would be required to begin initiating proceedings?

SEC. GATES: One of the recommendations -- I would just tell you one, and I don't want to get into a lot of details; Mr. Johnson's here and can answer your question -- one of the issues that came up was whether we should require a two-star or a one-star. And in my discussions with the Joint Chiefs, the practical aspects -- particularly in the Marine Corps, where there aren't a lot of two-stars and where a two-star may be at great distance from where a unit may be deployed -- having a -- having a one-star do it made it more practical.

My issue was really more to have a -- to have a flag-rank officer do this.

And I was very comfortable with doing it at the -- at the one-star level.

I just wanted to make sure that in terms of the experience and leadership level and so on that we -- that we elevated this to a level who -- of people who have a lot of experience and a lot of maturity.

Thank you all very much.

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EXHIBIT 3

Summary of Changes ***Revisions to the “Don’t Ask, Don’t Tell” regulations***

Prepared by the Office of the Secretary of Defense

Background:

On February 2nd, the Secretary of Defense announced that he had directed the Department of Defense to quickly review the regulations used to implement 10 U.S.C. § 654, the law commonly known as “Don’t Ask, Don’t Tell”, and within 45 days present to him recommended changes to those regulations that will, within the confines of the existing law, enforce the law in a fairer and more appropriate manner. The Don’t Ask Don’t Tell law is implemented by two regulations: DoD Instruction 1332.14 (“Enlisted Administrative Separations”) and 1332.30 (“Separation of Regular and Reserve Commissioned Officers”). The Secretary of Defense has approved revisions to these two regulations in consultation with the Military Services and the Joint Chiefs of Staff. The changes will take effect immediately and meet the Secretary’s directive to implement 10 U.S.C. § 654 in a fairer and more appropriate manner, within the confines of the existing law.

Summary of changes:

The modifications, among other things, raise the level of the commander authorized to initiate inquiries and separation proceedings regarding homosexual conduct; revise what constitutes “credible information” and “reliable persons”; and specify certain categories of information that cannot be used for purposes of homosexual conduct discharges.

Specifically, the changes will:

- Raise the level of the officer who is authorized to initiate a fact-finding inquiry or separation proceedings regarding homosexual conduct to a general or flag officer in the Service member’s chain of command.
- Raise the level of the person who conducts a fact-finding inquiry regarding homosexual conduct to the level of O-5 (Lieutenant Colonel or Navy Commander), or above.
- Raise the level of the officer who is authorized to separate an enlisted service member for homosexual conduct to a general or flag officer in the service member’s chain of command. (Under current policy, the separation authority for officers is the Service Secretary.)
- Revise what constitutes “credible information” to initiate an inquiry or separation proceeding, by, for example, specifying that information provided by third parties should be given under oath, and by discouraging the use of overheard statements and hearsay.
- Revise what constitutes a “reliable person,” upon whose word an inquiry can be initiated, with special scrutiny on third-parties who may be motivated to harm the service member.
- Specify certain categories of confidential information that will not be used for purposes of homosexual conduct discharges:
 - Information provided to lawyers, clergy, and psychotherapists;
 - Information provided to a medical professional in furtherance of medical treatment or a public health official in the course of a public health inquiry;
 - Information provided in the course of seeking professional assistance for domestic or physical abuse;
 - Information about sexual orientation or conduct obtained in the course of security clearance investigations, in accordance with existing Department of Defense policies.

EXHIBIT 4

**DEPARTMENT OF DEFENSE AUTHORIZATION
FOR APPROPRIATIONS FOR FISCAL YEAR
2011, AND TO RECEIVE TESTIMONY RELAT-
ING TO THE "DON'T ASK, DON'T TELL" POL-
ICY**

TUESDAY, FEBRUARY 2, 2010

U.S. SENATE
COMMITTEE ON ARMED SERVICES
Washington, D.C.

MILITARY POSTURE

The committee met, pursuant to notice, at 9:05 a.m. in room SD-G50, Dirksen Senate Office Building, Senator Carl Levin (chairman), presiding.

Committee members present: Senators Levin, Lieberman, Reed, Akaka, Bill Nelson, E. Benjamin Nelson, Bayh, Webb, McCaskill, Udall, Hagan, Begich, Burris, McCain, Inhofe, Sessions, Chambliss, Graham, Thune, Wicker, LeMieux, and Collins.

Committee staff members present: Richard D. DeBobes, staff director; and Leah C. Brewer, nominations and hearings clerk.

Majority staff members present: Jonathan D. Clark, counsel; Madelyn R. Creedon, counsel; Gabriella Eisen, counsel; Richard W. Fieldhouse, professional staff member; Creighton Greene, professional staff member; Jessica L. Kingston, research assistant; Michael J. Kuiken, professional staff member; Gerard J. Leeling, counsel; Peter K. Levine, general counsel; Jason W. Maroney, counsel; William G.P. Monahan, counsel; Michael J. Noblet, professional staff member; Roy F. Phillips, professional staff member; John H. Quirk V, professional staff member; and William K. Sutey, professional staff member.

Minority staff members present: Joseph W. Bowab, Republican staff director; Adam J. Barker, research assistant; Christian D. Brose, professional staff member; Pablo E. Carrillo, minority investigative counsel; Paul C. Hutton IV, professional staff member; Michael V. Kostiw, professional staff member; Daniel A. Lerner, professional staff member; David M. Morriss, minority counsel; Lucian L. Niemeyer, professional staff member; Christopher J. Paul, professional staff member; Diana G. Tabler, professional staff member; Richard F. Walsh, minority counsel; and Dana W. White, professional staff member.

Staff assistants present: Kevin A. Cronin, Jennifer R. Knowles, Christine G. Lang, and Breon N. Wells.

stand perfectly the President's desire to see the law repealed and we owe him our best military advice about the impact of such a repeal and the manner in which we would implement a change in policy.

The Chiefs and I have not yet developed that advice and would like to have the time to do so in the same thoughtful, deliberate fashion with which the President has made it clear he wants to proceed. The review group Secretary Gates has ordered will no doubt give us that time and an even deeper level of understanding. We look forward to cooperating with and participating in this review to the maximum extent possible, and we applaud the selection of Mr. Johnson and General Ham to lead it. Both are men of great integrity, great experience, and have our complete trust and confidence.

Mr. Chairman, speaking for myself and myself only, it is my personal belief that allowing gays and lesbians to serve openly would be the right thing to do. No matter how I look at this issue, I cannot escape being troubled by the fact that we have in place a policy which forces young men and women to lie about who they are in order to defend their fellow citizens. For me personally, it comes down to integrity, theirs as individuals and ours as an institution.

I also believe that the great young men and women of our military can and would accommodate such a change. I never underestimate their ability to adapt.

But I do not know this for a fact. Nor do I know for a fact how we would best make such a major policy change in a time of two wars. That there will be some disruption in the force I cannot deny. That there will be legal, social, and perhaps even infrastructure changes to be made certainly seem plausible. We would all like to have a better handle on these types of concerns and this is what our review will offer.

We would also do well to remember that this is not an issue for the military leadership to decide. The American people have spoken on this subject through you, their elected officials, and the result is the law and the policy that we currently have. We will continue to obey that law and we will obey whatever legislative and executive decisions come out of this debate.

The American people may yet have a different view. You may have a different view. I think that's important and it's important to have that discussion. Frankly, there are those on both sides of this debate who speak as if there is no debate, as if there is nothing to be learned or reflected upon. I hope we can be more thoughtful than that. I expect that we will be more thoughtful than that.

The Chiefs and I also recognize the stress our troops and families are under, and I have said many times before, should the law change we need to move forward in a manner that does not add to that stress. We've got two wars going on, a new strategy in Afghanistan, and remaining security challenges in Iraq. We're about to move forward under a new Quadrennial Defense Review. We still have budget concerns and a struggling economy, and we have a host of other significant security commitments around the globe. Our plate is very full, and while I believe this is an important issue, I also believe we need to be mindful as we move forward of other pressing needs in our military.

Thank you, Mr. Chairman.

Chairman LEVIN. Thank you very much, Senator Burris.

Senator Collins.

Senator COLLINS. Thank you, Mr. Chairman. Mr. Chairman, unlike my colleagues, I do have some questions rather than just a statement to ask.

Admiral Mullen, we know that many of our NATO allies allow gays and lesbians to serve openly and many of these countries have deployed troops who are serving with us in Afghanistan. Are you aware of any impact on combat effectiveness by the decision of our NATO allies to allow gays and lesbians to serve openly?

Admiral MULLEN. Senator Collins, I've talked to several of my counterparts in countries whose militaries allow gays and lesbians to serve openly and there has been, as they have told me, no impact on military effectiveness.

Senator COLLINS. We've heard today the concern that if "Don't Ask, Don't Tell" is repealed that it would affect unit cohesiveness or morale. Are you aware of any studies, any evidence, that suggests that repealing "Don't Ask, Don't Tell" would undermine unit cohesion?

Admiral MULLEN. I'm not. In fact, the 1993 Rand study focused heavily on unit cohesion and that became the principal point put forward by the military leadership at the time, and I understand that. I understand what it is, I understand what goes into it, and that there are—there's been no thorough or comprehensive work done with respect to that aspect since 1993. That's part of what needs to be addressed as we move forward over this year.

Secretary GATES. I would just underscore that. Part of what we need to do is address a number of assertions that have been made for which we have no basis in fact.

Senator COLLINS. Exactly.

Secretary GATES. We need—the purpose of the review that we are undertaking is to find out what the force, what the men and women in our armed forces, and, as Senator Webb said, and their families really think about this. The fact is at this point we don't really know.

Senator COLLINS. Thank you.

Thank you, Mr. Chairman.

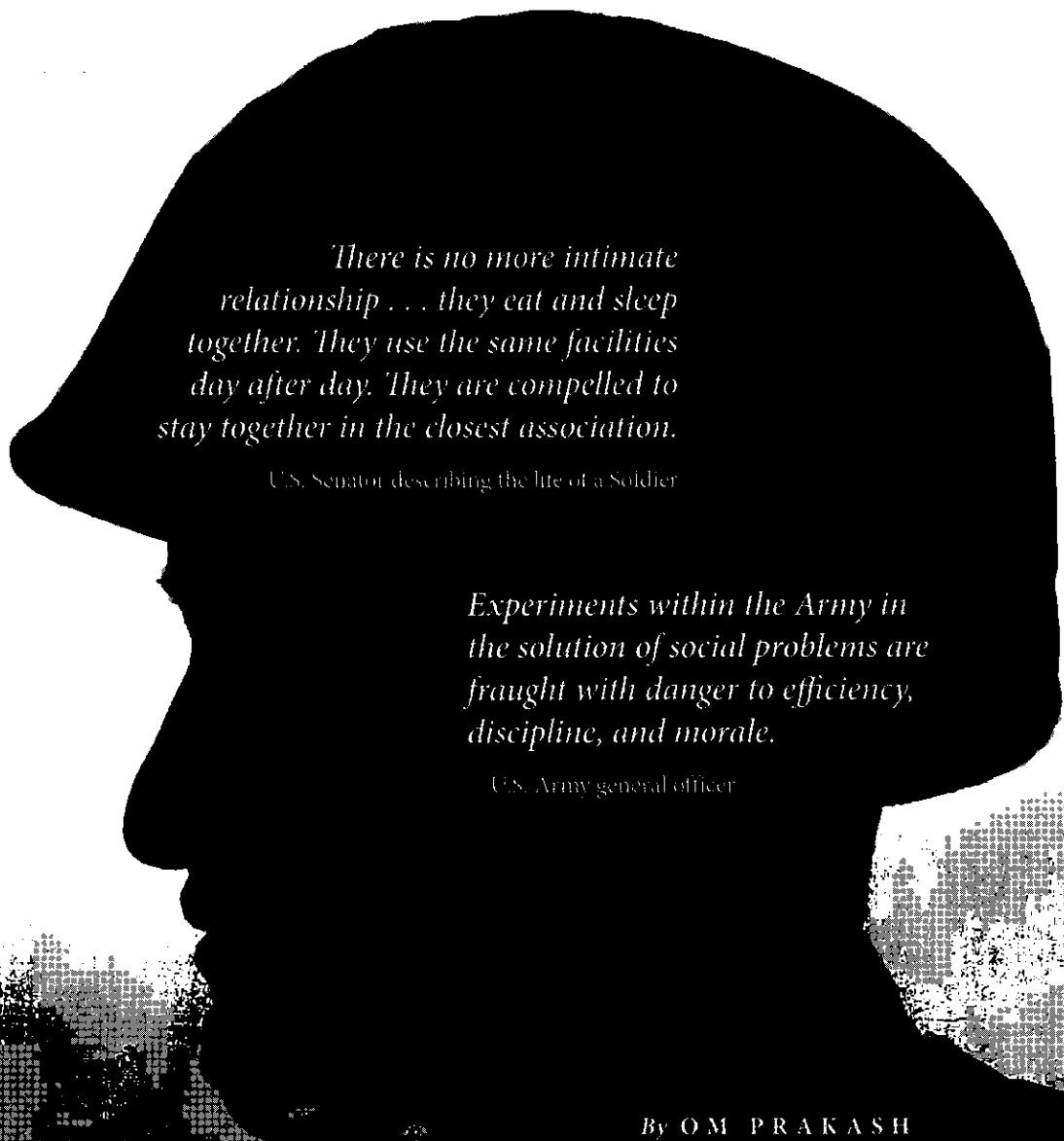
Chairman LEVIN. Thank you very much, Senator Collins.

Senator Lieberman is next and then, assuming nobody else comes in, then Senator McCaskill would be next, and then Senator Reed. Senator Lieberman.

Senator LIEBERMAN. Thanks, Mr. Chairman.

I opposed the "Don't Ask, Don't Tell" policy when it was created by this committee in 1993 and I remain opposed to it today. Therefore I support repealing it as soon as possible. My feeling, stated simply, then was that what mattered most was not how a member of the military lived his or her private sexual life, but that they were prepared to risk their lives in defense of our country; and that my judgment was that in a combat situation a member of the military in a tank or an MRAP today is going to care a lot more about the capability and courage of the soldier next to them than they are about the sexual orientation of that soldier, just as over the years, as Senator Burris referred to, they came to care a lot less

EXHIBIT 5



There is no more intimate relationship . . . they eat and sleep together. They use the same facilities day after day. They are compelled to stay together in the closest association.

U.S. Senator describing the life of a Soldier

Experiments within the Army in the solution of social problems are fraught with danger to efficiency, discipline, and morale.

U.S. Army general officer

By OM PRAKASH

The Efficacy of “Don’t Ask, Don’t Tell”

**Homosexual Servicemembers
have had to compromise their
personal integrity by keeping
their sexuality secret**

Colonel Om Prakash, USAF, wrote this essay while a student at the National War College.
It won the 2009 Secretary of Defense National Security Essay Competition.

though the epigraphs echo arguments made against homosexuals serving openly in the Armed Forces, they are the words of Senator Richard Russell of Georgia and General Omar Bradley in opposition to President Truman's 1948 executive order to racially integrate the U.S. military.¹ The discourse has gone beyond what is best for the combat effectiveness of the military to become a vehicle for those seeking both to retract and expand homosexual rights throughout society. It has used experts in science, law, budgeting, and military experience in an effort to settle an issue deeply tied to social mores, religion, and personal values.

A turning point in the debate came in 1993. Keeping a promise made during his campaign, President Bill Clinton attempted to lift the ban on homosexuals serving in the military. After strong resistance from the leadership in both the Pentagon and Congress, a compromise was reached as Congress passed 10 United States Code §654, colloquially known as "Don't Ask, Don't Tell" (DADT).² This law, which allowed homosexuals to serve as long as they did not admit their orientation, survived the Clinton and Bush administrations essentially unchanged. Repealing the ban on homosexuals serving openly was also a campaign promise of Barack Obama, though his transition team stated that they did not plan to tackle the issue until 2010.³ As this debate reignites, it is worthwhile to reexamine the original premises that went into forming the DADT policy, explore the cost and effectiveness of the law, and finally, with 16 years of societal drift, revisit the premises on which it is based.

There are five central issues. First, §654 has had a significant cost in both personnel and treasure. Second, the stated premise of the law—to protect unit cohesion and combat effectiveness—is not supported by any scientific studies. Strong *emotional* appeals are available to both sides. However, societal views have grown far more accommodating in the last 16 years, and there are now foreign military experiences that the United States can draw from. Third, it is necessary to consider the evidence as to whether homosexuality is a choice, as the courts have traditionally protected immutable characteristics. To date, though, the research remains inconclusive. Fourth, the law as it currently stands does not prohibit homosexuals from serving in the military as long as they keep it secret. This



Opposition to homosexuals serving openly in military is reminiscent of opposition to President Harry Truman's desegregation of military

U.S. Army

has led to an uncomfortable value disconnect as homosexuals serving, estimated to be over 65,000,⁴ must compromise personal integrity. Given the growing gap between social mores and the law, DADT may do damage to the very unit cohesion that it seeks to protect. Finally, it has placed commanders in a position where they are expected to know everything about their troops except this one aspect.

Origins

During the 1992 campaign, Presidential hopeful Bill Clinton made homosexuals in the military a political issue, promising to change the Pentagon's policy that only heterosexuals could serve in the military.⁵ On taking office,

it is necessary to consider the evidence as to whether homosexuality is a choice, as the courts have traditionally protected immutable characteristics

President Clinton initially assumed the ban could be lifted with an executive order, similar to the method President Harry Truman used to racially desegregate the military. He met fierce opposition in Congress led by Senator Sam Nunn (D-GA), who organized extensive House and Senate Armed Services Committee (HASC and SASC, respectively) hearings on the ban of homosexuals in the military. Two other factions emerged in Congress, one arguing for a complete repeal of the ban. A third compromise faction finally prevailed with the position that went on to become DADT, allowing homosexuals to serve as long as it was done in secret.⁶

Aside from the fierce divide in opinions, the debate also turned into a contest between Article I and Article II of the Constitution. Previously the ban on homosexuals was a

Pentagon policy, subject to the executive orders of the President. As a companion to the DADT policy, Congress permanently stifled this route, to the chagrin of the President. To preclude any future action to lift the ban via executive order, Congress wrote into law, "Pursuant to the powers conferred by Section 8 of Article I of the Constitution of the United States, it lies within the discretion of the Congress to establish qualifications for and conditions of service in the armed forces."⁷

Rationale

During congressional debate, there were three components to the argument supporting the ban on homosexuals serving in the military: health risks, lifestyle risks, and unit cohesion.⁸

The Army Surgeon General offered statistics showing a homosexual lifestyle was associated with high rates of HIV/AIDS, hepatitis B, and other sexually transmitted diseases. Aside from the increased health risk, statistics also showed a homosexual lifestyle was associated with high rates of promiscuity, alcoholism, and drug abuse.⁹ Ultimately, neither of the first two arguments made it into the rationale offered in §654—ostensibly because these risk factors are not uniquely associated with homosexuality and could be screened for and dealt with in a manner other than determining sexual orientation.

The central argument, and the only one that made it into law, rested on unit cohesion. The final language adopted by Congress stated:

One of the most critical elements in combat capability is unit cohesion, that is, the bonds of trust among individual service members that make the combat effectiveness of a military unit greater than the sum of the combat effectiveness of the individual unit members. . . . The presence in the armed forces of persons who demonstrate a propensity or intent to engage in homosexual acts would create an unacceptable risk to the high standards of morale, good order and discipline, and unit cohesion that are the essence of military capability.¹⁰

Associated Costs

Before the inception of DADT, the rates of discharge for homosexuality had been steadily falling since 1982. Once the law was passed, rates climbed, more than doubling by 2001 before beginning to fall again.¹¹ Since



President Clinton attempted to fulfill campaign promise to lift ban on homosexuals in the military

U.S. Navy (Bob McRey)

1994, the Services have discharged nearly 12,500 Servicemembers under the law.¹²

There are various explanations for the rise in discharges for homosexuality after 1993. One is that the increase reflects how discharges are recorded rather than an underlying change in practices. A senior Air Force Judge Advocate points out that prior to the change in the law, homosexual discharge actions during basic military training were classified as fraudulent enlistments because the person had denied being a homosexual when he or she enlisted and later changed position. After the change in the law, the Air Force no longer collected the information during the enlistment process, so fraudulent enlistment was no longer an option, and the Air Force began characterizing the discharges as homosexual conduct. Gay rights advocates argued that the increase was due to commanders conducting "witch hunts," yet commanders also reported fear of being accused of discrimination and only processing discharges when a case of "telling" was dumped in their laps.¹³ Another explanation is that given the law and recent reduction in stigma associated with homosexuality in society at large, simply declaring one is homosexual, whether true or not, is the fastest way to avoid further military commitment and receive an honorable discharge. In support of this supposition, Charles Moskos, one of the original authors of DADT, points out that the number of discharges for voluntary statements by Servicemembers accounted for 80 percent of the total, while

the number of discharges for homosexual acts actually declined over the years.¹⁴

The drop in discharges under the law since 9/11 has been used by both sides in support of their case. Gay rights advocates stated the military now needed every person it could get, so it looked the other way, but an equally compelling argument is that in the wake of the events of 9/11, pride and desire to serve reduced the numbers of those making voluntary statements in an effort to avoid further duty. An Air Force source also argues against the perceived need for personnel contributing in any way to the Air Force data because the response to indications of homosexuality has remained unchanged. The Air

commanders reported fear of being accused of discrimination and only processing discharges when a case of "telling" was dumped in their laps

Force investigates all cases when presented with credible evidence or a voluntary statement and has initiated discharge proceedings in all cases when the inquiry reveals a basis for such action.

Though the arguments explaining the patterns in discharges are compelling on both sides, ultimately it is difficult to prove any one factor because each explanation only partially explains the trends. Furthermore, whatever

the reasons, the fact remains that because of DADT, those Servicemembers no longer serve. It is also worth noting that the 12,500 figure is most likely low since it cannot capture the number of individuals who do not reenlist or who choose to separate because of the intense personal betrayal they felt continuing to serve under the auspices of DADT.

In a report released in February 2005, the Government Accountability Office (GAO) estimated the financial impact to be at least \$190.5 million for the previous 10 years of DADT policy. However, a University of California Blue Ribbon Commission that included former Secretary of Defense William Perry questioned the report's methodology. The commission faulted the GAO for not including recruiting and separation costs that brought the 10-year estimate to \$363 million.¹⁵ Also worth noting is that these figures do not account for the additional opportunity costs of high-profile, prized specialties such as Arabic speakers.¹⁶

If one considers strictly the lost manpower and expense, DADT is a costly failure. Proponents of lifting the ban on homosexuals serving openly can easily appeal to emotion given the large number of people lost and treasure spent—an entire division of Soldiers and two F-22s. Opponents of lifting the ban offer interesting but weak arguments when they compare the relatively small numbers of discharges for homosexuality with those discharged for drug abuse or other offenses. It is necessary to look past both of these arguments, remove the emotion, and instead examine the *primary* premise of the law—that open homosexuality will lead to a disruption of unit cohesion and impact combat effectiveness. If that assumption holds, then the troops lost and money spent could be seen as a necessity in order to maintain combat effectiveness just as other Servicemembers unfit for duty must be discharged.

Unit Cohesion/Combat Effectiveness

In 1993, as the language was drafted for §654, there were no direct scientific studies regarding the effects of acknowledged homosexuals on either unit cohesion or combat effectiveness. Furthermore, it is incorrect to equate the two because unit cohesion is only one of many factors that go into combat effectiveness. Potentially far outweighing unit cohesion, for example, are logistics, training, equipment, organization, and leadership, just to name a few.

Testimony before the HASC and SASC involved speculation on possible impacts from psychologists and military leaders.¹⁷ To date, there is still no direct scientific evidence regarding homosexuals serving openly, but there is now additional empirical data as several North Atlantic Treaty Organization Allies have since lifted the ban on homosexuals serving.

Though unit cohesion is not specifically defined in §654, it does refer to “bonds of trust,” the sum being greater than the individuals, and “high standards of morale, good order and discipline.” The *Dictionary*

there is no direct scientific evidence regarding homosexuals serving openly, but there is empirical data as several North Atlantic Treaty Organization Allies have lifted the ban

of U.S. Army Terms defines unit cohesion as the “result of controlled, interactive forces that lead to solidarity within military units directing soldiers towards common goals with an express commitment to one another and the unit as a whole.”¹⁸ As psychologists explored the concepts, experimental and correlation evidence supported dividing cohesion into two distinct types: social cohesion and task cohesion. *Social cohesion* is the nature and quality of the emotional bonds within a group—the degree to which members spend time together, like each other, and feel close. *Task cohesion* refers to the shared commitment and motivation of the group to a goal requiring a collective effort.¹⁹

When measuring unit performance, task cohesion ends up being the decisive factor in group performance. Common sense would suggest a group that gets along (that is, has high social cohesion) would perform better. Almost counterintuitively, it has been shown that in some situations, high social cohesion is actually deleterious to the group decision-making process, leading to the coining of the famous term *groupthink*. This does not imply that low social cohesion is advantageous, but that moderate levels are optimal.²⁰

Several factors contribute to cohesion. For social cohesion, the most important factors are propinquity—spatial and temporal proximity—and homogeneity. For task cohe-

sion, the factors include leadership, group size, shared threat, and past success. Interestingly, success seems to promote cohesion to a greater degree than cohesion promotes success.²¹

This leads to the conclusion that integration of open homosexuals might degrade social cohesion because of the lack of homogeneity; however, the effects can be mitigated with leadership and will further dissipate with familiarity. More importantly, task cohesion should not be affected and is in fact the determinant in group success. Given that homosexuals who currently serve do so at great personal expense and professional risk, RAND interviews suggest such individuals are deeply committed to the military’s core values, professional teamwork, physical stamina, loyalty, and selfless service—all key descriptors of task cohesion.²²

Homosexuality and Choice

As the debate reignites on DADT, it is necessary to consider whether homosexuality is a choice. Traditionally, courts have protected immutable characteristics, and Americans

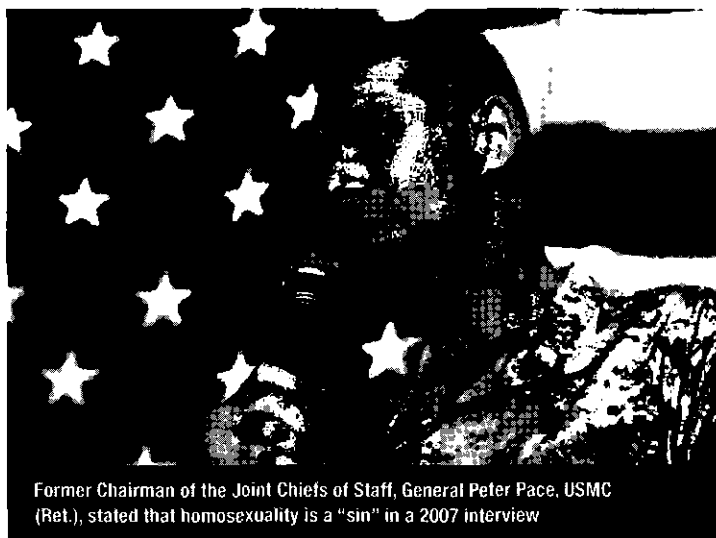
writ large are demonstrably more accepting of characteristics that an individual cannot change. Contrasting this, many opponents of lifting the ban assume that homosexuality is a choice and use this as the basis of many arguments.

Unfortunately, research has not yet yielded a definitive answer to this question. Both sides of the debate are armed with ultimately inconclusive scientific studies. What follows is a brief overview of several studies that have attempted to settle the dispute.

Several studies in the early 1990s examined the sexual preferences of identical twins and fraternal twins in the hopes of finding a genetic linkage to sexual orientation. Since identical twins have 100 percent of nuclear genetic material in common and fraternal twins have only 50 percent in common, if

a high percentage of identical twins share a characteristic (such as green eyes) while a lower percentage of nonidentical twins share that trait, it suggests there is a genetic basis. Conversely, if identical and nonidentical twins share a characteristic at equal rates (such as preference for the color red), it suggests there is not a genetic basis. With homosexuality, a number of twin studies attempted this type of isolation, and while early studies seemed to indicate a genetic linkage, follow-on studies found the error rate too high based on sample selection.²³ Repeat studies showed a genetic linkage, if it existed, was only moderately heritable and not in the simple Mendelian model.²⁴

In a different approach, in 1993 Dean Hammer and others initially found a strong genetic linkage in male homosexuality dubbed by the press as the “gay gene.”²⁵ Their studies involved examining the X chromosome of homosexual men (homosexual brothers and their family members). Yet follow-on studies in 2005 and a complete analysis of the entire genome found a weaker correlation.²⁶ Even



Former Chairman of the Joint Chiefs of Staff, General Peter Pace, USMC (Ret.), stated that homosexuality is a “sin” in a 2007 interview

U.S. Navy (Javier Capote)

anthropomorphic differences in homosexuals such as left-handedness, spatial processing, and hypothalamus size²⁷ that seem to argue for a genetic linkage can also be explained by prenatal differentiation through pathways yet to be elucidated.²⁸ Though these scientific studies give compelling evidence that there is some biological basis to sexual orientation, possibly genetic, and perhaps something early in development or even prenatal, the exact mechanism is yet to be identified.

Anecdotal data is also compelling, as illustrated by statements from homosexual

military members: "I wish I could decide who I fell in love with; if someone thinks I would consciously choose such a life where I am forced to live in hiding and fear, knowing the bulk of the population is against you, is just crazy. I can't help who I am." "Why would I choose to suffer like this?" Ultimately, it is probable that sexual orientation is a complex interaction of multiple factors, some genetic and some developmental, and that elements of free choice exist only to the same degree that they do for heterosexuals ignoring powerful biological urges.

Taking another step back, the problem is further complicated by individual identification of sexual orientation. Frequently, individual men who have engaged in single, and sometimes numerous, homosexual acts do not identify themselves as homosexuals. Depending on the circumstances, such as prison populations that preclude sex with women, individuals treat certain events as occurring outside their sexual orientation.²⁹ The issue is far more complicated with women. Research

sexual harassment regulations and sensitivity training would need to be updated, and guidance from leadership would be necessary

indicates women's ranks include primary lesbians, who are exclusively attracted to women, and elective lesbians, who shift back and forth depending not on the gender but on the personal qualities of a particular man or woman. This is a behavior not generally observed in men.³⁰ Such studies give insight and suggest some practical steps if homosexuals are to be integrated into the military.

There can be strong similarities between settings such as prisons and the Spartan field conditions Servicemembers must at times endure and the relatively weak correlation between isolated homosexual acts and self-described sexual orientation. This can manifest itself as homophobia and severe self-discomfort from conscious or subconscious clashes of sexual desires with values gained from society, family, or religion.³¹

Though many scientific experts will no doubt be called to testify during any future debates, lawmakers will not yet find any solid ground on which to base conclusions on the immutability of homosexuality. Ultimately,

the question of whether homosexuality is a choice can be treated as irrelevant. If the ban is lifted, basic respect of privacy will be required just as when women were fully integrated into the Services. Previously, the military found a lack of sexual privacy, as well as sex between male and females, undermined order, discipline, and morale.³² Dorm and facilities upgrades will no doubt be required. Sexual harassment regulations and sensitivity training would need to be updated, and guidance from leadership would be necessary. These would not be insurmountable obstacles.

Disconnects and Challenge

As social mores shift toward a greater acceptance of homosexuals, we slowly introduce cognitive dissonance into Servicemembers. Consider that a *Washington Post* poll stated 75 percent of Americans polled now believe that homosexuals should be allowed to serve openly in the military, up from 44 percent in 1993.³³ A 2006 Zogby poll of military serving in Iraq and Afghanistan found 37 percent disagreeing with the idea and 26 percent agreeing that they should be allowed.³⁴ The poll further found that a large percentage of Servicemembers are looking the other way, with 23 percent reporting that they are certain they are serving with a homosexual in their unit (59 percent of those reporting stated they were told directly by the individual).³⁵ Growing numbers, in both the Services and those considering service, see a gap between the traditional American creed of equality for all and the DADT law. To understand the moral dilemma this creates for many, consider the likely reaction if the forces were again racially segregated. Even former Chairman of the Joint Chiefs of Staff, General Peter Pace, who publically stated his opinion that homosexuality is a sin, also said, "Are there wonderful Americans who happen to be homosexual serving in the military? Yes."³⁶ General Charles Dunlap, Jr., USAF Judge Advocate, points out that those serving want to serve honorably for what they believe to be the right causes.³⁷

The law also forces unusual personal compromises wholly inconsistent with a core military value—integrity. Several homosexuals interviewed were in tears as they described the enormous personal compromise in integrity they had been making, and the pain felt in serving in an organization they wholly believed in, yet that did not accept them. Furthermore, these compromises undermined the

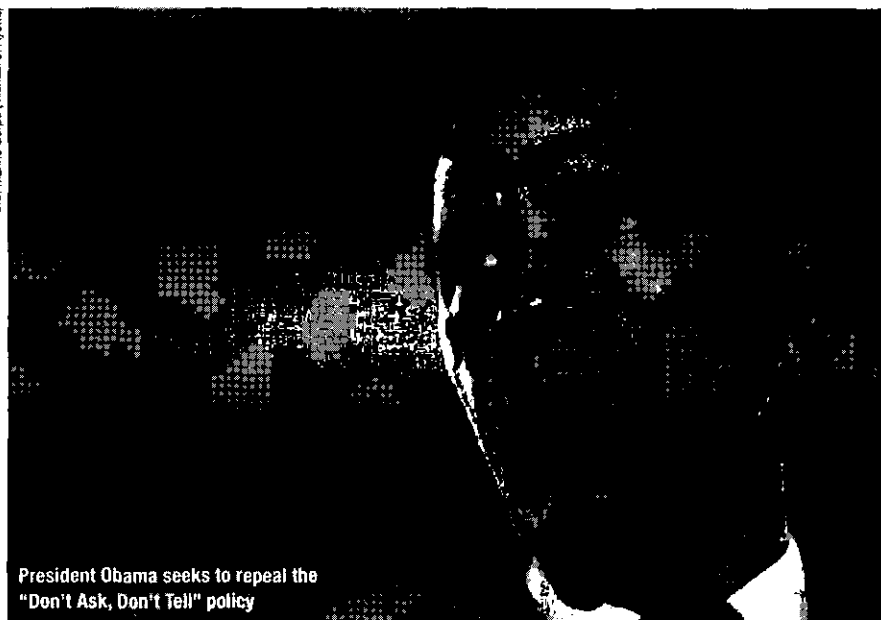
very unit cohesion DADT sought to protect: "I couldn't be a part of the group for fear someone would find out, I stayed away from social gatherings, and it certainly affected my ability to do my job."

DADT also represents a unique challenge for commanders. Normally charged with knowing everything about their troops, commanders are now trying to avoid certain areas for fear of being accused of conducting witch hunts³⁸ or looking as if they are selectively enforcing a law they have moral reservations against. Vice Admiral Jack Shanahan, USN, stated, "Everyone was living a big lie—the homosexuals were trying to hide their sexual orientation and the commanders were looking the other way because they didn't want to disrupt operations by trying to enforce the law."³⁹

In the case of integration of the sexes, the U.S. military found lack of sexual privacy, as well as sex between males and females, undermined order, discipline, and morale.⁴⁰ These concerns were solved by segregated living quarters. Here the issue becomes complicated. Those opposed to lifting the ban point out that the living conditions of the military would at times make it impossible to guarantee privacy throughout the spectrum of sexual orientation. But would such measures actually be necessary? Considering that estimates put 65,000 as the number of homosexuals serving in the military,⁴¹ would revealing their identities lead to a collapse of morale and discipline? Many top military officials do not believe it would. For example, Representative Joe Sestak (D-PA), a retired Navy vice admiral, currently supports lifting the ban. He stated that he was convinced by witnessing firsthand the integration of women on board ships as he commanded an aircraft carrier group. There were similar concerns about privacy and unit cohesion that proved unwarranted.⁴² Paul Rieckhoff, executive director of the Iraq and Afghanistan Veterans of America and former Army platoon leader, illustrates an additional point: "Just like in the general population, there is a generational shift within the military. The average 18-year-old has been around gay people, has seen gay people in popular culture, and they're not this boogeyman in the same way they were to Pete Pace's generation."⁴³

What to Expect

If the ban on homosexuals was lifted, it is worth considering what impacts there



would be on the Services. There are potential lessons to learn from other countries that have lifted the ban on homosexuals serving openly. There was no mass exodus of heterosexuals, and there was also no mass “coming-out” of homosexuals. Prior to lifting their bans, in Canada 62 percent of servicemen stated that they would refuse to share showers with a gay soldier, and in the United Kingdom, two-thirds of males stated that they would not willingly serve in the military if gays were allowed. In both cases, after lifting their bans, the result was “no-effect.”⁴⁴ In a survey of over 100 experts from Australia, Canada, Israel, and the United Kingdom, it was found that all agreed the decision to lift the ban on homosexuals had no impact on military performance, readiness, cohesion, or ability to recruit or retain, nor did it increase the HIV rate among troops.⁴⁵

This finding seems to be backed by the 2006 Zogby poll, which found that 45 percent of current Servicemembers already suspect they are serving with a homosexual in their unit, and of those, 23 percent are certain they are serving with a homosexual.⁴⁶ These numbers indicate there is already a growing tacit acceptance among the ranks.

As pointed out above, basic respect of privacy will be required just as when women were fully integrated into the Services.⁴⁷ Dorm and facilities upgrades would be needed. Sexual harassment regulations and sensitivity training would need to be updated, and guidance from leadership would be required.

Aside from the heterosexual population, changes in the behavior of the homosexual population would also be necessary. Several homosexual Servicemembers interviewed reported that given their relatively small numbers, and the secrecy they are faced with, hidden networks have evolved. These networks, built under the auspices of emotional support, have also led to violations of the military regulations governing fraternization between ranks. With any lifting of the ban on homosexuals serving openly, internal logic that condoned abandonment of fraternization regulations would no longer have even a faulty basis for acceptance.

in a survey from Australia, Canada, Israel, and the United Kingdom, it was found that the decision to lift the ban had no impact on military performance

Ultimately, homosexuals must be held to the same standards as any others.

Homosexuals have successfully served as leaders. There are several anecdotal examples of homosexual combat leaders such as Antonio Agnone, a former captain in the Marine Corps. Though not openly gay during his service, he claims that “Marines serving under me say that they knew and that they would deploy again with me in a minute.”⁴⁸ Others who have served in command posi-

tions have made similar observations that though they were not open about their orientation, they knew some of their subordinates knew or suspected, yet they did not experience any discrimination in disciplinary issues. In many cases, more senior Servicemembers’ concerns went beyond how their subordinates would handle their orientation to focus on the legal standing and treatment of their partners—another vast area of regulations the Department of Defense would have to sift through since same-sex marriages are governed by state, not Federal, law.⁴⁹ Nevertheless, psychologists speculate that it will not be an issue of free acceptance. Homosexual leaders are predicted to be held to a higher standard where they will have to initially earn the respect of their subordinates by proving their competence and their loyalty to other traditional military values. The behavior of the next leader up the chain of command is expected to be critical for how subordinates will react to a homosexual leader.⁵⁰

No doubt there will be cases where units will become dysfunctional, just as there are today among heterosexual leaders. Intervention will be required; such units must be dealt with just as they are today—in a prompt and constructive fashion. Disruptive behavior by anyone, homosexual or heterosexual, should never be tolerated.⁵¹

There will be some practical changes and certainly some cultural changes if Congress and the President move to lift the ban on homosexuals serving openly in the Armed Forces. These changes will not be confined to the heterosexual populations. Education, leadership, and support will be key elements in a smooth transition even though the cultural acceptance of homosexuals has grown dramatically in the 16 years since the passage of DADT.

The 1993 “Don’t Ask Don’t Tell” law was a political compromise reached after much emotional debate based on religion, morality, ethics, psychological rationale, and military necessity. What resulted was a law that has been costly both in personnel and treasure. In an attempt to allow homosexual Servicemembers to serve quietly, a law was created that forces a compromise in integrity, conflicts with the American creed of “equality for all,” places commanders in difficult moral dilemmas, and is ultimately more damaging to the unit cohesion its stated purpose is to preserve. Furthermore, after a careful examination, there

is no scientific evidence to support the claim that unit cohesion will be negatively affected if homosexuals serve openly. In fact, the necessarily speculative psychological predictions are that it will not impact combat effectiveness. Additionally, there is sufficient empirical evidence from foreign militaries to anticipate that incorporating homosexuals will introduce leadership challenges, but the challenges will not be insurmountable or affect unit cohesion and combat effectiveness. Though, as Congress

the 1993 "Don't Ask Don't Tell" law was a political compromise reached after much emotional debate based on religion, morality, ethics, psychological rationale, and military necessity

clearly stated in 1993, serving in the military is not a constitutional right, lifting the ban on open service by homosexuals would more clearly represent the social mores of America in 2009 and more clearly represent the free and open society that serves as a model for the world. Ultimately, Servicemembers serving under values they believe in are the most effective force multipliers.

Repealing the ban now will be more difficult than when it was created in 1993. It is no longer a Pentagon policy, but rather one codified in law. It will require new legislation, which would necessitate a filibuster-proof supermajority in the Senate.⁵² Most likely, leadership on the issue will come from the executive branch, and President Obama's transition team has indicated it will likely tackle the issue next year.⁵³ It is also possible the law could be struck down by judicial action finding the law unconstitutional.

Based on this research, it is not time for the administration to reexamine the issue; rather, it is time for the administration to examine how to implement the repeal of the ban. JFQ

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EXHIBIT 6

**HEARING TO RECEIVE TESTIMONY RELATING
TO THE "DON'T ASK, DON'T TELL" POLICY**

THURSDAY, MARCH 18, 2010

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

The committee met, pursuant to notice, at 9:51 a.m. in room SH-216, Hart Senate Office Building, Senator Carl Levin (chairman) presiding.

Committee members present: Senators Levin, Lieberman, Ben Nelson, Webb, Udall, Hagan, Burris, Kaufman, McCain, Sessions, Chambliss, Thune, and Collins.

Committee staff members present: Richard D. DeBobes, staff director, and Leah C. Brewer, nominations and hearings clerk.

Majority staff members present: Jonathan D. Clark, counsel; Gabriella Eisen, counsel; Jessica L. Kingston, research assistant; Gerald J. Leeling, counsel; and Roy F. Phillips, professional staff member.

Minority staff members present: Joseph W. Bowab, Republican staff director; Michael V. Kostiw, professional staff member; Diana G. Tabler, professional staff member; Richard F. Walsh, minority counsel; and Dana W. White, professional staff member.

Staff assistants present: Jennifer R. Knowles, Christine G. Lang, and Breon N. Wells.

Committee members' assistants present: James Tuite, assistant to Senator Byrd; Christopher Griffin, assistant to Senator Lieberman; Nick Ikeda, assistant to Senator Akaka; Ann Premer, assistant to Senator Ben Nelson; Patrick Hayes, assistant to Senator Bayh; Gordon I. Peterson, assistant to Senator Webb; Jennifer Barrett, assistant to Senator Udall; Roger Pena, assistant to Senator Hagan; Lindsay Kavanaugh, assistant to Senator Begich; Roosevelt Barfield, assistant to Senator Burris; Halie Soifer, assistant to Senator Kaufman; Lenwood Landrum and Sandra Luff, assistants to Senator Sessions; Clyde A. Taylor IV, assistant to Senator Chambliss; Jason Van Beek, assistant to Senator Thune; Chip Kennett and Meghan Simonds, assistants to Senator Collins.

OPENING STATEMENT OF SENATOR CARL LEVIN, CHAIRMAN

Chairman LEVIN. Good morning, everybody.

We're going to come to order, but we're then going to recess for 10 minutes, until 10 o'clock, and—for the benefit of colleagues, because we have an order of speaking, here, as to who's actually here when the gavel bangs. This will count. So, this will be the order

piece, in my view, of moving this issue forward in the right way. And based on that, I believe we can come to a considered and intelligent decision. And they may even go into distinctions based on types of units, General, something that you were referring to. I'm not—I don't want to predict at all where this is going to go. I just think that it is vital that we can say to the people in the military, and the American people, that we've been responsible in terms of how a decision has been made.

Thank you, Mr. Chairman.

Chairman LEVIN. Thank you very much, Senator Webb.

Senator UDALL.

Senator UDALL. Thank you, Mr. Chairman.

Good morning, to all three of you. This is a delicate and sensitive topic. I commend the courage all three of you have shown in coming here today and sharing your point of view.

But, General, before I direct a set of questions at you, and then follow with Mr. Almy and Ms. Kopfstein, I wanted to just make an editorial comment from one Senator. I am in the camp that thinks it's time to repeal "Don't Ask, Don't Tell." It's not whether, it's how and when. And I understand the need to study "Don't Ask, Don't Tell" in order to implement it. But, I share a deep concern that, if we continue the policy that's in place, hearing the stories I've heard today, you have to ask the question who is going to be the last servicemember—maybe I should say patriot, frankly—to be discharged under what I think's an outdated policy. I just want to make that clear for the record.

General, let me turn, as I suggested I would, to you. And—I'm aware of about a dozen studies, that go back at least two decades, to—that show that—no scientific evidence to back the assertion that open service is a detriment to unit cohesion and good order and morale. Are you aware of any reputable scientific study that does? Is there a study out there, to say it another way, from a reputable source, that lays out and gives weight to your belief that gays and lesbians are a threat to the military and its readiness?

General SHEEHAN. Senator, the answer to that is no. My—as I said in my statement, my conclusions are based on combat experience and leadership.

Senator UDALL. You said that we ought to prove that open service improves military effectiveness, and you did also mention this shouldn't be about enlightenment, and there is a different standard to serve in the military than there is, if you will, to be a United States citizen. I agree completely, this isn't, for me, about feeling good or feeling like we're pushing society to be more open. For me, it is that we're in a situation where we have 14,000 Americans who have been discharged, who've served honorably and with great effectiveness.

But, back to my question—so, I was saying you—you were saying we need to prove that open service improves military effectiveness. Has anybody proved that the current law improves effectiveness?

General SHEEHAN. Not that I know of, Senator.

Senator UDALL. I appreciate your frank answer.

Let me turn to the Major and the Lieutenant. Picture of our Armed Forces that General Sheehan paints is a very different one than I see. He's suggesting that the patriotic young Americans who

EXHIBIT 7

**Sexual Orientation and U.S.
Military Personnel Policy:
Options and Assessment**

National Defense Research Institute

RAND

The research described in this report was sponsored by the Office of the Secretary of Defense under RAND's National Defense Research Institute, a federally funded research and development center supported by the Office of the Secretary of Defense and the Joint Staff, Contract No. MDA903-90-C-0004.

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(3) the functioning of the institution, including whether, from the point of view of members within these departments, integration of acknowledged homosexuals in the workforce can be achieved without adverse effects on force effectiveness, recruitment, or retention.¹⁰ These issues have been highlighted in public discussions of allowing homosexuals to serve in the U.S. military.

The Experiences and Responses of Homosexuals

To what extent do they acknowledge their homosexuality once a policy change occurs?

Homosexuals differ from African-Americans, women, and others who have sought equal status in traditionally white, male-dominated police and fire departments in that their outgroup¹¹ status is not self-evident. While fellow officers may suspect them, such suspicions cannot usually be confirmed until homosexuals actually acknowledge their homosexuality. It is worth examining whether and the extent to which they make such an acknowledgment following the implementation of policies aimed at enhancing their ability to do so: If only a few disclose their homosexuality, any problems their presence might create will be commensurably small and thus more manageable.

In considering the issue of how many homosexual police officers and firefighters have publicly acknowledged their homosexuality within their departments, it is important to recognize that "coming out" is not a single action taken by an individual. Instead, it is a process that usually occurs in stages over long periods of time. It begins with personal acceptance of one's sexual orientation and tends to be followed first by disclosure to members of the homosexual community and to trusted heterosexual members of one's social network. Only later, in most cases, does it involve a more casual and public acknowledgment of

¹⁰As we stated earlier, the terms of the analogy leave some of these observations more useful to considerations of removing the restriction against homosexuals in the military than others. We include the conclusions of these departments on force effectiveness while recognizing that they may not speak directly to the military experience.

¹¹The term "outgroup" is used here in its traditional sense and should not be mistaken as a reference to homosexuals who have openly declared their homosexuality.

being homosexual. This means that homosexuals can acknowledge their homosexuality in certain arenas of their lives, such as their circle of friends, but not in others, such as their families or their workplace. It also means that within a setting such as the workplace, they can acknowledge their homosexuality to some colleagues, such as other homosexuals with whom they work or their closest heterosexual colleagues, but not to others.

The estimates of numbers of homosexual members of police and fire departments that follow reflect the endpoint of this process--the broader and more public acknowledgment of sexual orientation that involves widespread knowledge of this orientation throughout the workplace. However, additional individuals may disclose their sexual orientation to each other or to a selected group of heterosexuals. We had contact with many of these individuals, most often through the confidential homosexual fraternal organizations described earlier. Their perspective gave us insights into the concerns of homosexuals who have not made their sexual orientation known as they weigh a decision to publicly disclose their status as homosexuals.

Across all of the departments we examined, exceedingly few homosexuals announced their homosexuality, despite the existence of policies that codify their right to serve (see Table 4-4). This was especially pronounced in the five fire departments, where no male who was currently on any force had acknowledged his homosexuality and where acknowledged lesbians were found in only two. While there was general awareness that far more homosexuals were serving than were officially known in each of the departments we examined, in no department did the percentage of openly homosexual officers exceed 0.5 percent and the median value was 0.03 percent of the total force. Heterosexual and homosexual members of these departments alike predicted that this would eventually change, however slowly. At the time of the interviews, however, homosexual officers remained overwhelmingly reluctant to allow their homosexuality to become public knowledge, even where leaders in their departments were actively encouraging them to declare themselves.

Table 4-4
Numbers and Percentages of Open Homosexuals in the Police and Fire Departments of Six Cities

Institution	City	Total Force Size	Number of Open Homosexuals	Estimated Prevalence
Police	Chicago	12,209	7	0.06%
	Houston	4,100	0	0.00%
	Los Angeles	7,700	7	0.09%
	New York	28,000	-100	0.36%
	San Diego	1,300	4-5	0.25%
	Seattle	1,300	2	0.15%
Fire	Chicago	4,700	0	0.00%
	Houston	2,900	0	0.00%
	Los Angeles	3,200	0	0.00%
	New York	11,300	0	0.00%
	San Diego*	845	1	0.12%
	Seattle*	975	5	0.51%

*All openly homosexual firefighters in these cities were women.

As indicated earlier, far more homosexuals were known to each other and selected heterosexual members of their departments. Some of these individuals were members of confidential homosexual fraternal organizations. In one department, for instance, only seven individuals had acknowledged their homosexuality to their department, but more than 40 belonged to a homosexual fraternal organization of department members. Moreover, in every city, homosexual officers knew of other homosexual members of the force who had opted not to join such groups, either for fear of being identified or for lack of interest. There is no way of precisely estimating how many homosexuals are actually serving in these departments because people can successfully keep their sexual orientation hidden. It is thus impossible to estimate what proportion of homosexuals declare their orientation.

What are the factors that influence this process?

Perhaps one of the most salient factors that influences whether homosexual police officers or firefighters make their sexual orientation known to their departments is how they perceive their work climate. A marked degree of variation was apparent both between and within each of

the departments we examined in the messages sent to homosexuals regarding the reception they would get if they acknowledged their homosexuality. This variation could be observed along many dimensions, for example, across and within the hierarchical levels of an organization--between high-level managers, who displayed varying degrees of commitment to enforcing a policy of nondiscrimination and creating a hospitable environment for homosexuals; mid- and low-level managers, whose decisions most directly affected homosexual officers on a day-to-day basis and whose tone and attitudes set the boundaries of allowable behavior among the rank-and-file; and individual patrol officers or firefighters, where attitudes ran the gamut from strongly anti-homosexual to strongly pro-homosexual.

Differences in climate were also apparent between police and fire departments. The close living quarters and heavily conformist culture associated with firehouse life, as well as the insularity of fire departments from the growing acceptance of homosexuals in many urban communities, created a vastly more hostile environment. In police departments, political pressures to serve the homosexual community more effectively often resulted in diversity training and an increased awareness of the need to control negative behaviors toward homosexuals, if not a heightened sensitivity to homosexuality. Differences in climate were likewise apparent across gender lines, with women being far less likely than men to view homosexuality as being offensive, troublesome, and threatening. In addition, the climate with regard to lesbians was consistently more tolerant than with regard to homosexual men, particularly from the vantage point of heterosexual males. It was thus far easier for women to publicly acknowledge their sexual orientation than for men.

Homosexual officers made it clear that they carefully attend to the messages they received on each of these levels, assessing how each contributed to the workplace environment. In general, the more hostile the environment, the less likely it was that people publicly acknowledged their homosexuality. More people have declared their sexual orientation in departments that have aggressively pursued a policy of non-discrimination than in departments characterized by

pervasive hostility or benign neglect. More people have declared their sexual orientation in the relatively more tolerant climate of police departments than in fire departments. In addition, far more lesbians than homosexual men acknowledged their sexual orientation. Homosexuals were far more likely to be public about their sexual orientation if they worked in settings within a department known to be more accepting of homosexuals. Indeed, several police officers who were "out" noted that they had acknowledged their homosexuality only after transferring from precincts where anti-homosexual sentiment was high to less hostile work environments.

Variation in degree notwithstanding, our observations indicate that most of these police and fire departments can be characterized as being overtly, and in some cases extremely, hostile toward homosexuals. Non-discrimination policies have not magically transformed these departments into bastions of tolerance and restraint. The derision with which homosexuals are viewed by many members of these forces manifests itself on a daily basis in the workplace. Epithets such as "fag" and "dyke" and disparaging comments about homosexuals are commonplace, as are comments that display disregard for the lives and human rights of homosexual men and women. According to the people interviewed, these provide constant and troubling reminders to homosexuals who have not yet publicly acknowledged their homosexuality of the disdain with which homosexuals are viewed by many of those with whom they work and upon whom they depend.

Given the persistence of these attitudes, even in departments where attempts at change are actively being pursued, unacknowledged homosexuals harbored serious fears about the consequences of revealing their homosexuality. At a most basic level, they worried about their safety. While most were reasonably convinced they would still be able to count on the support of their fellow officers in life-threatening situations, it was not unusual to hear people express worries about back-up, placing in doubt something they need to take for granted in order to effectively perform their jobs. They also worried about their careers, wondering if the knowledge that they are homosexual might subtly color evaluations and hurt their chances of promotion. They knew

that at the very least acknowledging their homosexuality could entail being socially ostracized. They feared not being treated as "one of the crowd"; that people would talk behind their backs; that previously comfortable social interactions would suddenly become awkward; that they would be excluded from the camaraderie that typifies the small groups in which they work; that they would be subjected to mean-spirited pranks such as having their locker painted pink or being barraged with anonymously delivered AIDS literature. It is thus hardly surprising that most reached the conclusion that not going public, despite the personal toll it exacted, was preferable to acknowledging their homosexuality to their departments.

Other factors beyond the negative attitudes of those with whom they work also influenced homosexuals' decision to make public their sexual orientation. We were told that unacknowledged officers were often still engaging in a personal struggle to become comfortable with their homosexuality, having internalized the stigma that society places on it. These individuals were not at a point where they felt ready to acknowledge their sexual orientation publicly. Others were quite comfortable with their sexuality but felt that their sexual orientation was no one's business but their own. Many just wanted to do their job and worried that public knowledge of their sexual orientation would make them "gay" officers or firefighters, with all the notoriety that such a status implied. Still others felt they could "come out" at work without substantial discomfort but were loath to do so because they had not yet told their families of their homosexuality, or because they had relatives on the force whose lives would become more complicated because of their disclosure. Yet others felt that waiting until they had greater rank would make disclosing their sexual orientation easier. Acts of harassment against a superior would be viewed as insubordination, and such overt threats to discipline and command would be viewed by the top brass of these departments as a far greater threat than homosexuality.

Among those who did acknowledge their homosexuality, several factors were cited as contributing to their decision. Many sensed a readiness of those around them to accept a homosexual in their midst.

Many had already told their partners and in some cases their supervisors, thereby testing the waters. Some had observed the experiences of others and felt reassured that they could publicly acknowledge homosexuality without serious consequences--that back-up was there; that it was possible to move up through the ranks, still get reasonable assignments, and not get their lockers dumped out. Most felt themselves to be personally well-suited to the challenge of blazing a trail for their more reticent counterparts, either because they felt comfortable with themselves and their sexual orientation, because they had the social skills to smooth over what tensions might exist, or because their reputations as excellent officers protected them from the condemnation that those who had not yet proved themselves might face. Still others felt it important to be accepted for who they were and felt that the strain of aggressively hiding their homosexuality was far more costly than the consequences they might face by virtue of a public acknowledgment.

What are the actual experiences of those who have acknowledged their homosexuality?

Given the risks involved in a public acknowledgment, the decision to do so was rarely made without careful deliberation and considerable fear. One police officer, for instance, described publicly acknowledging his homosexuality as a far more frightening moment than anything he had experienced in his many years of police work and was convinced the event would be cataclysmic: "I expected the world would stop spinning and fall off its axis." In reality, most people who publicly acknowledged their homosexuality reported that the consequences of doing so were far less dire than they or their unacknowledged counterparts feared. Each faced some degree of hostility, but this typically took the form of offensive remarks or epithets. Pranks were occasionally reported, but back-up (with rare exceptions) could be relied on and overt violence was virtually unheard of. Most were socially accepted and even applauded for their courage; where they were not, social disruptions did not get in the way of their doing an effective job. Many spoke of the frustration of having to prove themselves over and over again with each transfer to a new assignment,

but most had confidence in their ability to do so and believed that acknowledging their sexual orientation had enabled them to perform their duties more effectively.¹² Many believed it improved their work environment, since people who had previously felt comfortable expressing anti-homosexual sentiments in their midst felt constrained by their public status from doing so, at least in *their* presence.

Isolated examples of more serious and threatening hostility do exist. For instance, an officer who had generally been viewed as a model policeman on the fast track before knowledge of his homosexuality became known ultimately left his department and filed suit against it after a protracted series of incidents left him fearing for his life. Fellow officers engaged in hostile pranks, such as scratching threatening messages into his car, solicited a false accusation from a suspect that the officer had inappropriately strip-searched him, and ultimately failed to adequately respond to calls for back-up. Equally telling is an example suggesting that the experience of dealing with quieter forms of harassment can exact a significant personal toll over time. An acknowledged homosexual and well-respected police officer recently left his department citing his unwillingness to cope with daily affronts to his dignity any longer. However, dire consequences appear to be the exception, rather than the rule, among the officers with whom we spoke.

Interestingly, where the most serious instances of abuse against acknowledged homosexual officers occurred, the situation was usually one in which the officer's homosexuality had become public knowledge not by design but by accident--where people had been "outed," in other words,

¹²The experiences of these officers may seem to contradict our claim that a climate of hostility toward homosexuals exists in these departments. As we state later in this section, homosexuals tend to come out in precincts where hostility is less pronounced. Also, they tend to come out after they have proven themselves to be good officers, allowing them to be defined by those who retain anti-homosexual feelings as "the exception to the rule." Finally, the anti-homosexual sentiment evident in these departments often takes the form of negative remarks regarding homosexuality and homosexuals. These, as we point out later, are not necessarily related to how these officers will behave to someone they know, though homosexual officers who have not disclosed their sexual orientation are not usually convinced of this.

or were merely suspected of being homosexual in departments where an especially hostile climate toward homosexuals prevailed.¹³ Where homosexual officers themselves were allowed to exercise their own judgment regarding whether public acknowledgment is well-advised, problems, if they emerged, were usually manageable.

Do acknowledged homosexual police officers and firefighters engage in personal behaviors that are disruptive to their organizations?

It is an often-cited fear among those anticipating the inclusion of homosexuals in work settings like the military or police and fire departments that homosexuals will behave in ways that will challenge local institutional norms and customs, e.g., by engaging in such practices as dancing together at departmental functions or sexually harassing heterosexual members of the force. Evidence to support these fears was very rare. Generally speaking, homosexual officers are sensitive to the climate in which they work. There are occasional exceptions, but the vast majority behave in ways that are designed to neither shock nor offend. No case of a homosexual male sexually harassing a heterosexual male was reported; indeed, the question itself sometimes evoked disbelief among those who had actually worked closely with homosexuals that such an event might occur. Occasional reports were offered by commanding officers of lesbians harassing heterosexual women--staring at them in the locker room or making unwelcome sexual comments. These were said to be rare, far more rare than incidents of heterosexual men harassing women. Public displays of affection were even more unusual; officers overwhelmingly conformed to established conventions regarding professionalism while in uniform. A few officers reported bringing same-sex partners to social functions, but only where it had been assumed that this would either be accepted or would serve as a nudge, rather than a hard push, against the established social order. Most either avoided department functions or attended them alone, but

¹³In departments where hostility toward homosexuals was particularly strong, it was reported that individuals suspected of homosexuality are frequently harassed. A heterosexual man who had been subjected to persistent harassment because of such suspicions was one of several litigants in a recently settled law suit against one of the police departments examined.

even those who included their partners at times commented that there were environments in which they would choose not to do so. A homosexual lieutenant commented that while he could readily bring a partner to New York Police Department functions, he would not consider doing this were he in the military. In his opinion, the NYPD is not an environment that is overtly hostile to homosexuals; the military is.

Another way in which the behavior of homosexual police officers and firefighters might inadvertently strain the organizations in which they work relates to how they react to the sometimes daily instances of personal harassment they face. A predisposition to aggressively file formal complaints regarding each incident of harassment could quickly overwhelm the systems in place to deal with these problems and exact further demands on scarce resources. In reality, formal complaints are rare. A strong cultural emphasis is evident within both police and fire departments on working out problems within the ranks and not informing on a peer. Homosexual officers have internalized this norm. In the words of one officer, "Being a rat is 1000 times worse than being called a fag." Most develop thick skins and either ignore or deflect the harassment they experience. Those who turn to the chain of command tend to do so informally, reaching out to a supervisor for assistance on the condition that he or she keep the complaint confidential. Usually, the goal is to end or contain the offensive behavior, not to punish the offending party. Formal complaints are invariably acts of desperation and are usually brought only against those whose behavior is recognized as going far beyond what most heterosexual officers would consider acceptable. Even in the New York Police Department, where acknowledged homosexuals are at least 100 strong and have an established political presence within the department, only four complaints of discrimination based on sexual orientation have been lodged over the last three years.¹⁴

¹⁴Another value to which firefighters in particular subscribe is that one should never bring embarrassment or negative attention to the firehouse group. The only openly homosexual (retired) male firefighter with whom we spoke talked about taking pains to ensure that his public discussions of his homosexuality never made reference to the firehouse in which he worked for this very reason.

What are the characteristics of homosexuals who join police and fire departments? Can they serve in a leadership capacity?

Many who contemplate the effect of opening military and paramilitary organizations to homosexuals worry that stereotypic homosexuals, particularly effeminate men, will compromise the image of their force. The demeanor of homosexual officers in the police and fire departments we visited suggested that such concerns have little basis because homosexual individuals were virtually indistinguishable from their heterosexual peers. Almost unilaterally, homosexual men were reported as being, and seemed to us to be, sufficiently innocuous in their behavior and appearance to have been able to pass as heterosexual members of the force for long periods of time. Said one homosexual policeman, "You can't be flamboyant. Most gay men who are police officers are probably more on the "butch" side. You have to look like a police officer." Lesbians also tended to be indistinguishable from their heterosexual counterparts. Occasional stories were told by heterosexual police officers of lesbians who came across as somewhat "butch," but this was said to work in their favor both on the beat and while socializing with the "boys" in the precinct houses. In general, our observations and people with whom we spoke suggested that those drawn to police work and firefighting were unlikely to match stereotypes that were inconsistent with the job at hand.

In addition to physically and behaviorally resembling their heterosexual counterparts, homosexual police officers and firefighters are identical to their heterosexual peers in the factors that attracted them to the organizations in which they work. In both cases, many had always assumed they would be members of the forces they were in, either because their families had traditionally engaged in such work, because of childhood fascinations with these professions, or simply because of a desire to serve their communities. Others cited pay and benefits as a prime motivator. No one we spoke to entered their departments with an eye toward advancing a homosexual agenda. Indeed, where job-related passion was expressed, it tended to reflect a stronger identification with being a police officer or a firefighter than a member of the

homosexual community.¹⁵ For some, this was only a job, but most believed in their work, believed strongly in their departments, and wanted to be good police officers or firefighters. As one fire chief stated, "Anyone who is attracted to this profession is a benevolent person who wants to save lives and property. This is true across any group."

As for performance, there was no question that homosexual members of these departments could do their jobs adequately.¹⁶ Each had passed his or her department's rigorous screening, had successfully completed training, and was currently carrying out his or her assigned duties. If anything, there was a general sense among both leadership and patrol officers that homosexuals who have publicly acknowledged their sexual orientation tend to be overachievers, perhaps because of the constant demand imposed on them to prove themselves, perhaps because only an untarnished record could allow an acknowledged homosexual to advance within the ranks. Several, including high-level chiefs, were convinced that if sexual orientation were a matter of record, an empirical comparison of the performance of heterosexuals and homosexuals would place homosexuals in a position of advantage.

There was general consensus, at least among the leadership of police departments, that despite the overall climates of hostility toward homosexuality that remained pervasive in their organizations, it was possible for homosexuals to serve in positions of leadership, provided that they were well-respected for their police work and were equitable managers. Challenges to their authority because of their homosexuality were always a threat. However, the ability of homosexual leaders to serve was facilitated by the structure of their paramilitary

¹⁵It was as hard for some of these officers to explain to their homosexual friends why they wanted to be police officers as it was to explain to heterosexual police officers why homosexuals might want to join the department.

¹⁶Performance went to the heart of the controversy surrounding the integration of women into police and fire departments and to the resentment that accompanied their inclusion, especially where performance standards had been lowered to allow their inclusion or where they were hired despite a lower ranking on a hiring list. It was not an issue with regard to homosexuals for either the leaders or heterosexual members of the rank-and-file with whom we spoke.

organizations, which featured strict guidelines for how one treats an officer, a strong value on maintaining discipline and respecting command, and a thick rule book that could be utilized when people stepped out of line. In fact, where homosexuals had reached positions of leadership, such punitive actions were rarely needed. In the same way that homosexuals did not go public until there was a readiness for them to acknowledge their homosexuality, they did not make their way up the ranks nor were they placed in positions of command until there was a readiness on the part of the leadership of the organization to support them and a readiness, or at least a near-readiness, on the part of the rank-and-file to follow them.¹⁷ In this regard, it is worth pointing out the one exception that we found to the general rule that homosexual leaders were able to command effectively. This occurred in a police department known to harbor particularly virulent attitudes toward homosexuals, where a sergeant who had never intended to reveal his sexual orientation was "outed" as a result of a chance off-duty occurrence.

The Responses and Concerns of Heterosexuals

To what extent do heterosexual police officers and firefighters accept homosexuals who acknowledge their sexual orientation? Are they willing and able to work with them?

As the discussion of the hostile climate within each of the departments makes clear, negative attitudes toward homosexuals do not miraculously disappear once a policy of nondiscrimination is enacted. Anti-homosexual attitudes are real in these departments. These attitudes, however, are not uniformly held either across or within the settings we examined. Indeed, among those who have actually worked with homosexuals, there are signs of more accepting attitudes that, according to those in leadership, have been growing steadily over time.

¹⁷This assertion is based on limited data. Because so few homosexuals were acknowledged, we spoke directly to only two officers with some degree of rank--one a sergeant, the other a lieutenant. There were other examples, and respondents cited these in concluding that homosexual officers could effectively lead.

One heterosexual woman whose squad car partner was a lesbian arrived at a focus group meeting with a button proclaiming her commitment to gay rights. Many straight officers in a variety of contexts voiced the belief that a person's sexual orientation was immaterial to them. Both heterosexual and homosexual officers confirmed that homosexuals were frequently, even if not consistently, included in off-duty social activities. Homosexuals made reference to the support they received from individual colleagues when they acknowledged their homosexuality and to their surprise at both the strength and, in some cases, the source of that support. More than one told stories of co-workers who, upon learning they were homosexual, reassured them of their own comfort with the person's sexual orientation but warned them that others would have a hard time, only to have those others pull them aside and say the same thing. In other words, these members of their departments endorsed the notion of pervasive anti-homosexual attitudes, but each saw himself or herself as an exception to that rule.

Even heterosexual officers who expressed less positive attitudes toward their homosexual colleagues often adhered to a strong ethic of professionalism that allowed them to work smoothly with homosexuals in spite of their personal feelings. Who one went to bed with, however objectionable, was less important to these officers than whether a person performed well on the job; good officers, they believed, "judged each other as cops." For these officers, getting the job done was paramount.¹⁸ They made a point of not allowing any personal animosity they might feel toward homosexuals to interfere with their mission or the overall goals of their department. They expected back-up when they needed it and responded immediately to others when they requested it, regardless of how they felt about them. Not responding to a call because an officer was homosexual or dismissing his or her performance

¹⁸A retired firefighter whose homosexuality had been common knowledge while he was stationed in a firehouse commented that he worked with 60 men of whom 20 wouldn't give him the time of day, 20 were cordial, and 20 were his best friends. Before and after a fire, he volunteered, anti-homosexual sentiment existed, but during the fire they worked together as if they were best buddies.

because of sexual orientation went against every principle they believed in.¹⁹

The apparent contradiction between descriptions of the anti-homosexual climate of these departments provided to us and the positive experiences that some of the acknowledged homosexual officers reported suggests that the attitudes and behaviors of heterosexual members of these departments are complex and sometimes counterintuitive. While strong negative and positive messages were both evident to varying degrees across and within departments, much of what these officers offered defies simplistic categorization. It was not unusual for officers to advance seemingly contradictory statements or behave in contradictory ways as they tried to reconcile strongly felt but inconsistent values. For instance, heterosexual officers could insist that they were offended by those who felt it necessary to share their sexual orientation but express anger and hurt that a trusted partner might withhold such information. Nor was it unusual to find evidence that what officers said in one context might differ in another. In this regard, it is worth pointing out that some members of a group of heterosexual officers who espoused highly charged and negative attitudes toward homosexuals in a focus group discussion reminded us that the attitudes people proclaim before the judging eyes of their peers may differ from the opinions they actually hold.²⁰

Even more important, it was clear that how people behave is not necessarily consistent with the attitudes they profess. There are countless examples of this, such as the many heterosexuals who insist they respect homosexuals but continue to make derisive comments about them. No statement could be more telling or surprising, however, than the reflections of an officer who actively participated in a highly damning discussion of homosexuality on the force--one that even included

¹⁹This ethic of professionalism was usually expressed where heterosexual officers had actually worked with homosexual officers. It was often present even where expressions of anti-homosexual sentiment were typical and an overall climate of hostility in the department-at-large existed.

²⁰Our experience was consistent with this observation: One-on-one interviews did yield less-pronounced negative views on homosexuality.

statements suggesting that back-up for known homosexuals might be slow. Toward the end of a long evening, this man volunteered: "There is a gay officer here that we all work with. If he were about to die, and I had to perform CPR, I'd probably hold my breath and do it. Then I'd get tested for the rest of my life. If I see someone down, I will take care of them. Probably everyone would. Life is something more than a series of probability curves."

What concerns are voiced by heterosexual police and firefighters, particularly those who have had experience with homosexual colleagues? For instance, how salient are concerns over privacy? HIV?

While privacy was often voiced as a strong concern by police officers and firefighters who had not worked closely with homosexual colleagues, it was not a very salient issue for those who had. This latter group admittedly did not include firefighters (whose experiences are far more comparable to those of military service members), since no acknowledged male homosexuals served in the fire departments we examined. Police officers and their leaders, who were quick to note that they neither had to live with their colleagues nor necessarily had to shower with them, confessed to some initial discomfort in communal locker rooms but reported that whatever tension existed was managed quickly and relatively easily, either by acclimating to the situation or by changing it--moving one's locker, for instance, or subtly changing one's schedule to avoid unwanted encounters. While some continued to worry about being ogled in the locker room, others--most pointedly those working in a precinct with several homosexual males--rejected the notion that anything untoward would occur. "Guys there wouldn't act unprofessionally," they asserted. While women were generally thought to be less concerned with locker room issues, privacy was said to be more of an issue for female officers than for male officers because of what was referred to as the more aggressive nature of lesbians. These comments were uniformly secondhand, having been reported by heterosexual men rather than women themselves.²¹

²¹According to male leadership in several departments, privacy was an issue when women first entered firehouses but usually not for long. Interestingly, it was not a concern of males, who reportedly comported

Concerns with regard to HIV were far stronger. While in many cases, these concerns were at least partially mitigated by the training officers received in order to effectively carry out their duties (i.e., standard practices for dealing with situations involving contact with bodily fluids in the case of police officers; emergency medical service training in the case of firefighters), concerns that the presence of homosexual males in the workplace would raise one's personal risk of contracting AIDS ran high. We heard police officers raise the question of whether they would provide emergency first aid to fellow officers known to be homosexual. We heard firefighters express fears that exposure to the virus through shared dishes or use of bathrooms might expose them to risk, and a general level of suspicion that AIDS is more easily transmitted than common knowledge would have one believe. We also learned from one department of a lawsuit brought by an HIV+ firefighter who agreed to take a detail outside of a firehouse after knowledge of his HIV status became public, but subsequently claimed to have been coerced. This incident generated much concern among not only rank-and-file but a high-level leader of the department whose son-in-law worked in that firehouse. It left the top brass of the department believing that without the AIDS issue, homosexual men could be integrated into firehouses without threatening operational effectiveness, but that given the strong link between AIDS and male homosexuality, problems would be inevitable. "I think I'd have a massive education problem," one leader of this department offered. "People would be hurt until they learned it has to be this way."

themselves in the presence of women as they had prior to their entry-- sleeping in their underwear, and so forth. Rather, it was a concern for female firefighters, who by necessity shared bathrooms and open dormitories with their male counterparts. Locks solved the problem of men walking into a bathroom being used by a woman. Women temporarily used screens and other improvised ways of creating privacy but these disappeared quickly in most places after women decided they were inconvenient and unnecessary. One woman commented that faced with the discomfort of sleeping with a bra under a t-shirt, she quickly learned to put aside her feelings of modesty. In other departments, however, women saw privacy issues as an ongoing problem and a prime source of harassment.

Perhaps the most sharply expressed concern on the part of rank-and-file members of these departments, however, was the fear that homosexuals would achieve--indeed, in some instances had achieved--special class status. This issue spontaneously emerged in each of our focus groups with heterosexual rank-and-file officers, most of whom were white and male. Outrage was consistently voiced at the possibility that homosexuals might be disproportionately hired, receive special promotional opportunities, be held to a lower standard, or be afforded special class protections (such as unique procedural pathways for lodging complaints). These individuals already felt hampered in their interactions with minorities and women because of the perception that such individuals could lodge formal complaints against them regarding behavior they themselves felt was harmless--that these groups had power over them because of their special protection under the law. They also perceived themselves as experiencing the sting of reverse discrimination with regard to women and minorities within their organizations and bitterly resented it. The last thing they wanted to see was another protected class. In the words of one firefighter, "I have acquaintances who work in dispatch with gay males and they don't have a problem with it. If they were in the crew and could do their job, it would be okay. But when the gay group gets into place, they'll have special access, just like the other groups. There's no special committee for regular people. So many others get special attention that the voices of regular people like us are drowned out."

To what extent are negative attitudes toward homosexuals subject to change? How does this change occur?

As indicated earlier, there was a general sense among those in both leadership and rank-and-file roles in the police and fire departments we examined that change is occurring with regard to the attitudes of heterosexual officers and firefighters toward homosexuals, but that such change is occurring slowly. Many offered the prediction that twenty years from now far more homosexuals would be acknowledging their sexual orientation and that many of the seemingly intractable problems that currently existed would be solved, as had already occurred with regard to the integration of minorities and was currently occurring with the

integration of women. In the meantime, leaders asserted that members of their departments had the personal right to believe whatever they wanted as long as they acted in ways that were consistent with department expectations. Anti-homosexual attitudes could be tolerated, they offered, as long as they did not manifest themselves in behavior. Said one chief, "I don't want to be in a position of telling people how to think. It is more valuable to let people know how to direct their behavior while on the job." Leaders felt it possible to be patient with the slow pace with which attitudes change. Behavioral change, on the other hand, could be made to happen immediately in these paramilitary organizations with the proper message, proper leadership, and effective enforcement.

A valuable by-product of demanding nondiscriminatory conduct toward homosexual officers, leaders believed, was that attitudinal change would eventually result: "Change their behavior," said one, "and their hearts and minds will follow." This was not the only factor influencing attitudinal change, however. The inclusion of younger, better educated cohorts of officers with more tolerant views of homosexuality was repeatedly mentioned in discussions of attitude change, as was the simple passage of time. "You constantly hear macho people saying, 'I'm not going to tolerate gays in the firehouse,'" offered one fire chief. "In the 60s, people claimed that they wouldn't sleep in a room with black guys, and look at things now. Things evolve and take care of themselves." Also mentioned was the process that elevates one's status as a police officer or firefighter to a higher level of importance than one's status as homosexual, a transformation that usually occurred after a particularly competent or heroic handling of a dangerous situation. Commented one commander, "Over time, if straight cops accept the individual, the fact that they are gay or lesbian becomes inconsequential. If a gay officer becomes involved in a police incident and proves his worth, he leaves the realm of 'them' and becomes an 'us.'"

But by far, positive contact was pointed to as the most potent determinant of attitudinal change.²² Given the opportunity to know homosexual colleagues and thereby test the stereotypic images, heterosexual men and women could arrive at a different understanding of homosexuality. One deputy police chief offered, "I don't want someone making advances on me and I have my own prejudices. But contact with gay leaders in the business community during the initial process of change helped start to break down the stereotypes I had." Homosexual officers concurred that contact could be the pivotal factor in turning around negative attitudes. "Most people don't know someone who is gay. Once they get to know someone who is gay, the negative attitudes and behaviors start to break down. People are amazed to find out you have a full, well-formed life with a stable partner, and that you're not just out looking for anonymous sex. It's not being able to be honest that allows the stereotypes to continue."

There was far less consensus on the issue of whether formal sensitivity training facilitated attitudinal change among heterosexual officers. Homosexual members of these departments tended to be strong advocates of training, believing that ignorance would give way to knowledge and understanding if people were exposed to accurate information regarding homosexuals. Leaders, too, tended to advocate sensitivity and diversity training especially in the earliest stages of an officer's career, though in police departments this was usually because a strong value was placed on officers having the tools they needed to interact effectively with the homosexual community. Heterosexual members of the rank-and-file of these organizations, however, were far more skeptical. Where training was not perceived as being directly related to performing their job, they tended to resent the need to sit through discussions of lifestyles that they perceived as immoral or in which they had little interest. To their way of thinking, sensitivity training designed to facilitate the integration of homosexuals into their forces was the very kind of coddling that

²²See the chapter on public opinion for information on public opinion surveys that support the association between contact and attitudes.

signaled special class status and all the deleterious consequences that accompanied it. This was especially the case when such training took place in departments where resources were clearly constrained. Where people were being laid off, benefits were being threatened, promotional opportunities were shrinking, and equipment was not being replaced because of budget shortfalls, training efforts designed to increase tolerance sometimes exacerbated resentment against homosexuals.

The Impact of Policy Change on the Institution

To what extent did a policy of tolerance toward homosexuals affect the functioning of these police and fire departments? Did it compromise their ability to perform their mission? Did it make it more difficult to recruit quality officers? Did it result in valued members of the force leaving?

It was the shared consensus of leaders across each of the departments we examined that a policy of non-discrimination had in no way compromised their ability to perform their mission. Admittedly, the effect of tolerating openly homosexual individuals had not received an adequate test in any of the departments examined, given that so few homosexual officers have "come out." In other words, the scale of the phenomenon was such that even if the effect of open homosexuality were a threat to force performance, its overall effect would be negligible. Where homosexuals had acknowledged their homosexuality, however, leaders denied that their existence constituted such a threat. In New York, for instance, the two precincts with the highest proportions of acknowledged homosexual officers both enjoyed reputations as well-performing units in which morale was high. Moreover, leaders across departments--both top brass and commanders--unilaterally believed that members of their departments would acknowledge their sexual orientation in public only in relation to the ability of their units to accept and accommodate them. None anticipated a threat to force effectiveness at any time in the future.

This is not to say that concerns regarding cohesion and morale do not manifest themselves on various levels within many of the departments we studied, especially in fire departments. Fire chiefs worried about the impact of "AIDS-hysteria" in firehouses and pointed to the

disruption that often accompanied the introduction of women into firehouses. Firefighters in one city insisted that the presence of members of such a reviled outgroup would disrupt the smooth functioning of their unit and compromise their ability to perform. In another department (where two lesbians have "come out"), firefighters emphasized that what the top brass says is irrelevant, since "we work with it, we have to live with it." These firefighters went on to describe how resentment over special class protections afforded homosexuals and women had so compromised morale that "we are at a point now that we have seen teamwork and the level of performance go down."

However, little consensus existed on the relationship between social cohesion²³ and performance. Many members of police and fire departments, in fact, voiced the suspicion that cohesion (referring to social cohesion), while helpful, was not really a necessary ingredient to accomplishing the work at hand. Others cited cohesion (referring to task cohesion)²⁴ as being critically important but offered that it was not necessarily threatened by the existence of people who did not like one another. These values were offered not only by leadership but by rank-and-file department members as well; moreover, they were offered by both homosexual and heterosexual respondents. Professionalism, a shared mission, the cultivation of a common "police persona," and the existence of common external threats were, overall, considered far more salient than affective ties. Task cohesion, these individuals seemed to be saying, was far more important than social cohesion, and task cohesion was not as threatened by the presence of homosexuals on their forces.

As for recruitment and retention, neither of these had yet been problematic nor were they future causes of concern. With regard to recruitment, each of these departments continued to receive far more qualified applications than they could possibly accommodate. None lost the ability to be as selective as they desired; neither had any of them

²³Social cohesion, as defined in the chapter on unit cohesion, refers to the nature and quality of the emotional bonds of friendship, liking, caring, and closeness among group members.

²⁴Task cohesion refers to the shared commitment among members to achieving a goal that requires the collective efforts of the group.

heard of a qualified applicant declining to pursue employment in their departments because homosexuals might be there. Experiences with retention were somewhat less unilateral. Occasional references were made to officers with twenty-five years who took their retirement rather than adjust to a change.

In the end, it was the consensus across the leadership of departments with acknowledged homosexuals that the homosexuals could be integrated without compromising mission readiness or effectiveness. This process was not problem-free, but the challenges that arose were eminently manageable, especially given the paramilitary features of their organizations. All foresaw a future in which far more openly homosexual personnel would serve on their force; none saw a future in which their ability to meet their operational goals would be diminished. Concerns regarding the short- and long-term effect of integrating prior out-groups, particularly those where individual performance was not an issue, had been shown by past experience to be overinflated in these departments. For all of the concerns of some departmental members that their forces were straying from traditional standards, those at the helm remain convinced that they had not, and would not, lose the high levels of effectiveness they had traditionally maintained. In the words of one fire chief: "When I started firefighting, I heard the old timers saying, 'The young ones can't cut it; they could never do what we had to do.' Their time was more difficult--ladders were wooden rather than aluminum; hoses were heavier. In their eyes we could never make the mark, but we did our jobs well--as well as they did. Now our children are coming on, and I have no doubt that they will sit and make the same judgment in twenty years. There will be major changes, but the firehouse structure will still be there. Females won't change that; gays won't change that either. We basically attract the same individuals and train and mold them in the same way. The force will always be one we can be proud of."

THE IMPLEMENTATION PROCESS

How the implementation process unfolded differed from department to department in the six cities we examined. Variation was observed, for

instance, in the time between the formal initiation of a policy and the actual process of taking steps to put some teeth into that policy. In some cases, that period spanned more than a decade; in others, it barely existed. Variation was also apparent in how clearly and consistently commitment to a non-discrimination policy was expressed and on how aggressively the policy was implemented. In some departments, high-level leaders sent mixed messages regarding whether the department actually endorsed such a policy, or they allowed middle-level managers, either by word or deed, to communicate messages that were antithetical to formal policy. In others, leaders believed they were implementing a zero-tolerance policy but there was clear evidence of pervasive, tolerated discrimination. Still elsewhere, policies were implemented in ways that suggested that these were legal requirements but were not necessarily consistent with overall department philosophy or actual departmental practice. Where any of these occurred, the message heard by the rank-and-file was that discrimination was permissible; the message internalized by homosexuals was that publicly acknowledging their homosexuality was ill-advised.

This variation notwithstanding, our efforts to understand how domestic police and fire departments implemented policies that allow acknowledged homosexuals to serve produced a number of insights into factors that influence the implementation process in both positive and negative ways. Most of these observations were articulated repeatedly by individuals across the variety of departments visited. A smaller number are based on our own synthesis of the voluminous data provided to us. In this section, we move beyond consequences of non-discrimination policies to summarize what we learned about factors that facilitate and hinder the implementation process, and about how the implementation process itself tends to unfold.

The Nature of the Policy

Virtually all of those interviewed agreed that *non-discrimination policies were most readily implemented where they were simple, clear, and consistent*, and thus easily communicated. Complicated policies were vulnerable to misinterpretation, whether innocent or calculated. Clear

messages, stated forcefully, left little to hide behind. In all but two of the departments examined, simplicity and clarity in the policy message were evident.

Even more important, however, policies were most successfully implemented when they were enforced consistently. Implementation was most successful where leadership at all levels was saying the same thing and where practice matched the letter and spirit of formal policy. Departments were less uniformly successful in this regard; in many, mixed messages were sent. At times, high-level leaders who voiced support for nondiscrimination policies behaved in ways that gave the lie to that support, briefly suspending an officer found guilty of comporting with a heterosexual prostitute, for example, while terminating the officer found guilty of soliciting or procuring homosexual sex. Middle- and lower-management were often reported to have loudly and very intentionally publicized their disagreements with official policy and the wishes of top brass through both their comments and behavior. Official policy might hold that recruiters be sexual-orientation blind, but in practice they would ask direct questions about the dating habits and sexual partners of those seeking entry into the department. Where these inconsistencies existed, the ultimate message received by those in the rank-and-file was that discrimination was unofficially tolerated and even supported. Invariably, behavior reflected this support.

The Appropriate Emphasis in Implementing Non-Discrimination Policies

Through the course of implementing non-discrimination policies with regard to both women and homosexuals, most of the departments examined ultimately concluded that *aggressive attempts to alter attitudes were foolhardy. Targeting behavior, they reported, was the appropriate approach.* It was unreasonable, in other words, to expect members to give up strongly held and deeply entrenched beliefs overnight. It was not unreasonable, however, to insist that they keep those beliefs from interfering with their adherence to workplace expectations of behavior. In other words, policies of coexistence need not demand acceptance of homosexuals or homosexuality. Behavior could be controlled, they came

to realize, where clear standards of conduct existed; telling people what they could or should believe, on the other hand, was presumptuous and sure to provoke resentment. The words of a fire chief, offered as he contemplated the errors his department had made in trying to integrate women into firehouses, convey this sentiment. "If I were able to do it all over again," he said, "I wouldn't be as ambitious. I'd accept that firefighters had a lifetime to form the attitudes they have and that those attitudes cannot change in a week. You can't try to make nice persons out of them. They're entitled to their opinions. But in the workplace, they have to understand that there is a code of conduct. 'Abide by the rules, and if you don't, here is what is going to happen. Your personal convictions have no bearing on the workplace.' If you go beyond that, you leave yourself open to all kinds of problems."

While leaders across these departments believed that clear standards of behavior were necessary and that the consequences for not meeting them should be equally clear, none tried to spell out every conceivable situation an officer might face to which codes of conduct might apply.²⁵ Rather, general principles of fairness, respect, honor, decorum, and the need to avoid the creation of hostile environments were embedded in statements of expected behavior, the assumption being that their application to most situations would be self-evident. Leaders and members of the rank and file of these organizations alike emphasized that successful codes of conduct recognized the responsibility of both sides--the out-group as well as the in-group--to adapt to one another. "We shouldn't bug each other," said one police officer. This meant being sensitive to the "gray" line between tolerable and offensive comments on the part of heterosexual officers ("If something I say bothers you, let me know; now I know where the gray line is"), and an effort to be thick-skinned on the part of those who are homosexual.

It is also worth pointing out that codes of conduct tended to be written in generic terms to cover behavior as it applied to any individual, rather than targeting special groups. This approach was

²⁵Only in sexual harassment guidelines were detailed definitions of prohibited behaviors provided.

usually much more sensitive to the tendency of special class treatment to breed resentment and an unintended backlash.

The Critical Role of Leadership

Leadership at all levels was unilaterally recognized as being one of the most critical ingredients to the successful implementation of controversial and potentially unpopular policies. This was certainly evident at the highest levels of these departments; clear evidence existed that strong leaders could push a department in one direction or another. In one of the cities, for example, a new chief was able, in a relatively few years, to transform a department with no acknowledged homosexual officers and an extremely antagonistic relationship with the homosexual community into one with an increasingly open and comfortable homosexual representation and a relationship of trust with that community. His leadership style was a strong one that conveyed intention not only by pronouncement but by example. This was a chief who marched in the city's Gay Pride parade and terminated the department's relationship with the Boy Scouts of America when, in a neighboring city, a model officer's participation in an Explorer Scout program was disallowed after his homosexuality became known. An equally strong chief with antithetical beliefs was, until recently, the head of the police department in another of the cities. While this chief paid lip service to the formal non-discrimination policy his department had enacted in accordance with a city council directive, his true beliefs were a matter of record and readily apparent to those throughout the ranks. An extremely hostile attitude toward homosexuals pervaded all aspects of his department throughout his tenure.

While having a strong, committed chief at the helm was generally recognized as being a necessary ingredient in implementing a non-discrimination policy, members of every department recognized that it is not enough for top leadership to value a policy. It is also essential that this value be internalized down the chain of command. For a policy to be successfully implemented, in other words, middle- and low-level managers have to communicate a similarly strong set of expectations and

be willing to put some muscle behind them. The front line supervisor, in the final analysis, was pointed to as the critical link.

The experience of the police and fire departments we examined suggests that enlisting the cooperation of middle- and low-level managers is not always easy. Multiple respondents in each department cited variability in the extent to which managers communicated and enforced messages sent down from the top. While chiefs acknowledged, in some cases with sadness, that "sometimes you need to hang a few folks to get the message across," most, in effect, tolerated highly variable commitment on the part of middle- and low-level managers to nondiscrimination policies against women and homosexuals. Each understood, however, that without the strong support of such managers, policy implementation was impossible.

Several department leaders spoke to the issue of how best to enlist and secure the support of middle and lower management in implementing policy changes. One, in particular, felt he had erred in taking too *laissez faire* an approach and suggested that there were lessons to be learned from his failure. "If I were doing it now," he hazarded, "I would have a rap session with the staff chiefs. I'd allow them to scream and holler about what will be ruined and how wrong it all is. But I would emphasize the law. I would tell them, 'Whether you believe in it or not, you must comply with the law.' I would also have rules in place about behavior. At the end, staff chiefs would leave the session with the knowledge that regardless of how they feel or think, 'These are the guidelines; now go out and tell the people what we want.' You have to allow the staff chiefs to 'get it out.' But after the session is over, they have to get on with it--meet with the subordinate commanders and tell them just as strongly, 'This is the way it is going to be.'" Bringing managers on board, he implied, meant giving them a chance to vent their feelings. But it also clearly meant insisting, in the same way as these managers would insist to those below them in the chain of command, that whatever their attitudes might be, their behavior had to conform to organizational policy.

Respondents across many departments added to this prescription. Reference was made to leading by example as a first choice of action but

being willing to make an example of someone as a necessary second--to strongly sanction inappropriate behavior, in other words. "I think there's going to have to be some butt kicking if you are to get the point across," noted one fire chief. Others talked about the importance of "being out in front of the issue"--of creating a climate in which undesirable behavior is unthinkable and thus avoided. Many talked about leaders having to assume responsibility for the behavior of those under their command and insisted that leaders be held to a high standard. One chief went so far as to argue that leaders who follow a policy of benign neglect should be punished as heavily as those engaging in acts of discrimination, and that leaders who set a climate in which a sanctionable act might be perceived as acceptable should be treated as harshly as the individuals under their command who commit those acts.

Two factors were cited as facilitating the efforts of leaders at all levels in bringing behavior into line. The first of these was *credibility*. The point was made in one department, for instance, that the fact that the policy change had been initiated by a mayor who was perceived as highly supportive of the police--a mayor who early in his tenure had been derided by the police and even suspected of being homosexual--increased its acceptability. Where leaders enjoyed broad support and were well-respected by those beneath them, their message was more widely accepted.

The second of these was actually a set of factors that might best be referred to as *leadership ability*. All departments recognized the existence of leaders whose ability stood in marked contrast to that of ordinary leaders. While isolating what distinguished the former from the latter was often difficult, there was little doubt that a direct correlation existed between leadership ability and the success with which unpopular policies were implemented. Said one chief with regard to the integration of women onto his force, "In cases where the female firefighter was integrated smoothly, there was strong leadership on the part of officers and the company commander. Conversely, where the company commander abrogated his responsibility or stuck his head in the sand, that's where we had the problems. Good leaders didn't have trouble getting other people to go along. Those without strong

leadership qualities left it to individuals to work it out on their own." This was equally apparent to members of the rank-and-file. In the words of a firefighter in another department (speaking with regard to discrimination towards women), "I know people on this job who, if they knew they could get away with it, would do people in. But here they know they can't, so they do their job and keep their gripes to themselves." Under strong leadership, it was generally agreed, attitudes could be contained and professionalism in the workplace could be assured.

The impossibility of bringing every leader into line was also recognized. Chiefs, middle managers and members of the rank-and-file all used the term "dinosaurs" in each of the departments we examined to refer to old-timers who had not, and would not, keep pace with the changing times. Some of these could be given a golden handshake, but others enjoyed powerful protection from those within the political or organizational establishment and had no plans to leave the department. It was generally recognized that departments had to live with these individuals. In such situations, it was thought best to minimize the damage they could do by placing them where they could do least harm. Comfort was invariably drawn from the fact that they, like their namesakes, would eventually disappear.

Unintended Consequences of Special Class Status

Integrating new groups into police and fire departments often required quick solutions to problems in the workplace. This was probably more true with regard to integrating women into these forces than it was with homosexuals, and most true with regard to firehouses, where close living quarters raise concerns pertaining to both homosexuals and women. The leaders and rank-and-file of many of the departments we examined suggested that *where the solutions to these problems either provide special privileges or inadvertently confer special class status, the flames of resentment directed at the outgroup in question will be fanned, and more troubling problems may ensue.* Heterosexual members of these departments believed that wherever possible, solutions should benefit the entire force, rather than

selected members of that force, and should be described in language that reinforces this idea.

For instance, many fire departments later regretted the "by-the-seat-of-their-pants" solutions to the privacy issues that were used when women joined their forces. Departments that moved commanders out of private offices or commandeered common rooms for use as bedrooms learned that they had only given firefighters further reason to resent the women in their midst. Where departments had the resources to improve privacy for all firefighters (by installing stall showers or curtained sleeping areas, for instance), the introduction of women into the firehouse could be associated with a positive change. Likewise, departments that broke with established tradition to give outgroups privileged access to higher-ups in the chain of command sometimes discovered that these attempts to deter harassment exacerbated the resentment that was feeding it. In a similar vein, police departments learned that the targeted recruitment of homosexuals was best understood as not an affirmative action attempt to increase the representation of a deserving minority but rather a practical application of the principle that the more a force resembles the community being served, the better it will be able to get its job done. "If you can make a change appear to be positive for all members of the organization," noted one police chief, "it will be much easier to implement."

This is not to say that harassment guidelines should not reference special class status or that no special class protections are warranted. Outgroups are invariably at a significant disadvantage as they enter traditional organizations and may need assistance as these organizations adapt to their inclusion. It is to say, however, that solutions to the problems of inclusion should be arrived at only after full consideration of their impact on the force-at-large, and should steer clear of unintended costs that create new problems. Wherever possible, accommodations to special populations should confer advantage to all members of a force.

Training

Accurate information on who homosexuals are, how they come to be that way, and how they lead their lives was cited by many members of these departments, particularly leaders and homosexual members of the rank-and-file, as a potentially powerful tool in combating the stereotypic views held by many police officers and firefighters, especially if conducted by someone--preferably homosexual--who has earned their respect in the workplace and knows what it means to do the work of the organization. But the responses of heterosexual members of the rank-and-file suggested that training can also draw ridicule and breed resentment, as we indicated earlier, especially if it is not seen as being relevant to one's mission. Consequently, *sensitivity training cannot unilaterally be viewed as positive*. Indeed, if designed solely for the purpose of changing negative attitudes toward homosexual co-workers (as opposed to how best to discharge one's duties, for instance), sensitivity training may be inconsistent with the clearly articulated principle that as long as people adhere to behavioral guidelines, what they think is their own business. Where sensitivity training cannot be justified by the demands of workplace performance, therefore, it may not be appropriate.

On the other hand, providing training to leaders on how best to implement a policy was always seen as being appropriate. While good leadership may prevail in the absence of training, we were told that the provision of support--helping leaders understand the policy, offering insights into how hypothetical situations might be handled, providing them with replies to the questions they might typically receive from those under their command--can substantially improve their ability to effect positive change. Implementation training may include some of the information typically covered in sensitivity training, but situates it in a framework where the goal is to provide practical solutions to real-life problems, not to change attitudes. A desirable by-product of this training, we were told, may indeed be the kind of attitude change among leaders that can serve to further facilitate policy implementation.

The Self-Regulating Nature of the Implementation Process

A last but extremely critical finding that emerges from the experiences of these police and fire departments is that regardless of when a formal policy of non-discrimination toward homosexuals is officially enacted, change is not necessarily immediate. In reality, implementation proceeds at a pace that is particular to each institution and consistent with what it can absorb. While the departments we examined shared many things in common, each is situated in a different and ever-changing social climate, has its peculiar history and culture, draws upon slightly but significantly different pools of candidates for its workforce, and has been influenced over time by very different sets of leaders. All of these combine to produce a unique level of readiness for change in each department that constantly evolves over time. Our observations suggest that neither the behavior of homosexuals in the workplace nor the aggressiveness with which the implementation of nondiscrimination policies occurs strays far from this level. This explains why so few homosexuals publicly reveal their sexual orientation in these departments, and in fire departments in particular. It also explains how a policy of nondiscrimination can be formally in place for significant periods of time, as was the case in several cities, but not result in any substantial departmental action toward implementation until years later.

This is not to say that actions never go beyond what might be perceived as tolerable by an organization. On rare occasions, homosexuals on the one hand, and department leaders on the other, may approach the threshold, and even advance beyond it. They invariably do so only slightly, however, provoking a mild and manageable reaction. In such situations, the effect of their actions is often to stretch the boundaries of the threshold slightly further. Where they do so too aggressively, self-correcting mechanisms usually communicate their misjudgment and sustain the existing tolerance zone. Thus, in one department the fact that a homosexual brought his partner to a departmental function met with some discomfort among selected members of the force but no overwhelming condemnation. As others who had been more comfortable watching him from the wings became willing to take similar

actions, heterosexuals became further acclimated to this social practice and a higher threshold of tolerable behavior resulted. In another department, however, where the tolerance threshold was different (perhaps because homosexuals had not been "out" in the force for as long), this same act evoked a much stronger reaction. The homosexual patrol man in question acknowledged that he would not repeat his action the following year and the tolerance "line," at least for the moment, remained in place.

What this suggests is that policy actions calculated to slow the implementation process down in order to allow actions to remain consistent with an organization's readiness for change are probably unnecessary. In all of the cities we examined, a step-wise implementation process and an overall conservative and measured reaction on the part of homosexual officers is occurring naturally over time. Change will happen, but rarely if ever will it move from Point "A" to Point "Z" regardless of whether stated policy, for the sake of simplicity and accuracy of intention, suggests that this is where it should go. Rather, it will take place in a more linear and staged fashion, with behaviors clustering around a readiness or tolerance threshold that constantly and inevitably adjusts itself over time.

IMPLICATIONS FOR IMPLEMENTING POLICIES OF NON-DISCRIMINATION

Our comprehensive examination of police and fire departments in six cities supports a number of critical findings and insights that are potentially relevant to the U.S. military's efforts to assess its own policy toward homosexuals and to determine how the policy agreed upon can be implemented most effectively. These include, but are not restricted to, the following:

- Homosexuals who join police and fire departments do not fit stereotypes that are inconsistent with the image and mission of these organizations. Moreover, they are attracted to police and fire work for the same reasons as their heterosexual counterparts.