

APPENDIX A

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HEARING OF THE SENATE ARMED SERVICES COMMITTEE; SUBJECT: DEFENSE AUTHORIZATION REQUEST FOR FISCAL YEAR 2011; THE FUTURE YEARS DEFENSE PROGRAM; THE 2011 QUADRENNIAL DEFENSE REVIEW (QDR); THE 2011 BALLISTIC MISSILE DEFENSE REVIEW (BMDR); THE "DON'T ASK, DON'T TELL" POLICY; CHAIRED BY: SENATOR CARL LEVIN; WITNESSES: ROBERT GATES, SECRETARY OF DEFENSE; ADMIRAL MICHAEL MULLEN, USN, CHAIRMAN OF THE JOINT CHIEFS OF STAFF ROBERT HALE, UNDERSECRETARY OF DEFENSE (COMPTROLLER); LOCATION: ROOM SD-G50, DIRKSEN SENATE OFFICE BUILDING, WASHINGTON, D.C. Federal News Service February 2, 2010 Tuesday

Second, the law finds that civilian life is fundamentally different from military life, which is characterized by its own laws, rules, customs and traditions, including many restrictions on personal conduct that would not be tolerated in civil society.

Finally, the law finds that the essence of military capability is good order and unit cohesion, and that any practice which puts those goals at unacceptable risk can be restricted.

These findings were the foundation of "don't ask, don't tell." And I'm eager to hear from our distinguished witnesses what has changed since these findings were written, such that the law they supported can now be repealed.

Has this policy been ideal? No, it has not. But it has been effective. It has helped to balance a potentially disruptive tension between the desires of a minority and the broader interests of our all-volunteer force. It is well understood and predominantly supported by our fighting men and women. It reflects, as I understand them, the preferences of our uniformed services. It has sustained unit cohesion and unit morale while still allowing gay and lesbian Americans to serve their country in uniform. And it has done all of this for nearly two decades.

Mr. Chairman, there -- this is a letter signed by over 1,000 former general and flag officers who have weighed in on this issue. I think that we all in Congress should pay attention and benefit from the experience and knowledge of over a thousand former general officers and flag officers, and which -- where they say: We firmly believe that the -- this law, which Congress passed to protect order -- good order, discipline and morale in the unique environment of the armed forces, deserves continued support.

And so I think we should also pay attention to those who have served, who can speak more frankly on many occasions than those who are presently serving.

I know that any decision Congress makes about the future of this law will inevitably leave a lot of people angry and unfulfilled. There are patriotic and well-meaning Americans on each side of this debate. And I've heard their many passionate concerns. Ultimately though, numerous military leaders tell me that "don't ask, don't tell" is working, and that we should not change it now. I agree.

I would welcome a report done by the Joint Chiefs of Staff -- based solely on military readiness, effectiveness and needs and not on politics -- that would study the "don't ask, don't tell" policy, that would consider the impact of its repeal, on our armed services, and that would offer their best military advice on the right course of action.

We have an all-volunteer force. It is better trained, more effective and more professional than any military in our history. And today, that force is shouldering a greater global burden than at any time in decades.

We owe our lives to our fighting men and women. And we should be exceedingly cautious, humble and sympathetic when attempting to regulate their affairs. "Don't ask, don't tell" has been an imperfect but effective policy. And at this moment when we're asking more of our military than at any time in recent memory, we should not repeal this law.

Thank you, Mr. Chairman.

SEN. LEVIN: Thank you, Senator McCain.

Secretary Gates.

SEC. GATES: Mr. Chairman, last week during the State of the Union Address, the president announced he will work with Congress this year to repeal the law known as "don't ask, don't tell." He subsequently directed the Department of Defense to begin the preparations necessary for a repeal of the current law and policy. I fully support the president's decision.

The question before us is not whether the military prepares to make this change but how we must -- how we best prepare for it. We have received our orders from the commander in chief and we are moving out accordingly. However we can also take this process only so far, as the ultimate decision rests with you, the Congress.

I am mindful of the fact, as are you, that unlike the last time this issue was considered by the Congress more than 15 years ago, our military is engaged in two wars that have put troops and their families under considerable stress and

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strain. I am mindful, as well, that attitudes toward homosexuality may have changed considerably, both in society generally and in the military, over the intervening years.

To ensure that the department is prepared should the law be changed, and working in close consultation with Admiral Mullen, I have appointed a high-level working group within the department that will immediately begin a review of the issues associated with properly implementing a repeal of the don't ask, don't tell policy. The mandate of this working group is to thoroughly, objectively and methodically examine all aspects of this question, and produce its findings and recommendations in the form of an implementation plan by the end of this calendar year.

A guiding principle of our efforts will be to minimize disruption and polarization within the ranks, with special attention paid -- a special attention paid to those serving on the front lines. I am confident this can be achieved.

The working group will examine a number of lines of study, all of which will proceed simultaneously. First, the working group will reach out to the force to authoritatively understand their views and attitudes about the impact of repeal. I expect that the same sharp divisions that characterize the debate over these issues outside of the military will quickly seek to find their way into this process, particularly as it pertains to what are the true views and attitudes of our troops and their families. I am determined to carry out this process in a way that establishes objective and reliable information on this question, with minimal influence by the policy or political debate. It is essential that we accomplish this in order to have the best possible analysis and information to guide the policy choices before the department and the Congress.

Second, the working group will undertake a thorough examination of all the changes to the department's regulations and policies that may have to be made. These include potential revisions to policies on benefits, base housing, fraternization and misconduct, separations and discharges, and many others.

We will enter this examination with no preconceived views, but a recognition that this will represent a fundamental change in personnel policy, one that will require that we provide our commanders with the guidance and tools necessary to accomplish this transition successfully and with minimum disruption to the department's critical missions.

Third, the working group will examine the potential impacts of a change in the law on military effectiveness, including how a change might affect unit cohesion, recruiting and retention, and other issues crucial to the performance of the force. The working group will develop ways to mitigate and manage any negative impacts.

These are, generally speaking, the broad areas we have identified for study under this review. We will, of course, continue to refine and expand these as we get into this process or engage in discussion with the Congress and other sources. In this regard, we expect that the working group will reach out to outside experts with a wide variety of perspectives and experience. To that end, the department will, as requested by the committee, ask the RAND Corporation to update their study from 1993 on the impact of allowing homosexuals to serve openly in the military.

We also have received some helpful suggestions on how this outside review might be expanded to cover a wide swath of issues. This will be a process that will be open to views and recommendations from a wide variety of sources, including, of course, members of Congress.

Mr. Chairman, I expect that our approach may cause some to wonder why it will take the better part of the year to accomplish the task. We've looked at a variety of options, but when you take into account the overriding imperative to get this right and minimize disruption to a force that is actively fighting two wars and working through the stress of almost a decade of combat, then it is clear to us we must proceed in a manner that allows for the thorough examination of all issues.

An important part of this process is to engage our men and women in uniform and their families over this period since, after all, they will ultimately determine whether or not we make this transition successfully.

To ensure that this process is able to accomplish its important mission, Chairman Mullen and I have determined that we need to appoint the highest-level officials to carry it out. Accordingly, I am naming the Department of Defense general counsel, Jay Johnson, and General Carter Ham, commander of U.S. Army Europe, to serve as the co-chairs for this effort.

APPENDIX B

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

MARGARET WITT, Major,)	
)	
Plaintiff,)	
)	
v.)	
)	
UNITED STATES DEPARTMENT OF THE)	
AIR FORCE; ROBERT M. GATES,)	NO. C06-5195-RBL
Secretary of Defense; MICHAEL B.)	
DONLEY, Secretary of Department)	
of the Air Force, Colonel;)	
JANETTE L. MOORE-HARBERT,)	
Commander of the 446th)	
Aeromedical Evacuation Squadron,)	
Colonel; McChord AFB,)	
)	
Defendants.)	

Deposition of MAJOR GENERAL ERIC W.
CRABTREE, taken on behalf of Plaintiff, at
2040 Main Street, Suite 250, Irvine,
California, commencing at the hour of
1:12 p.m., ending at 2:31 p.m., on Wednesday,
March 24, 2010, before MICHELLE
LOTT-MEYERHOFER, CSR 8226

1 A No.

2 Q This might trigger a memory or it might not. Is
3 it possible that you knew, before the Summer of 2004,
4 that there is this Major who's on the Promotional
5 Recruitment Literature for a career in the Air Force
6 Nursing Corp. that features her photograph? Is that
7 anything you every knew?

8 A No, not until after the action started.

9 Q So what is the first thing you ever found out
10 about Major Margaret Witt?

11 MR. DIEDERICH: Objection. Let me just caution
12 the General to the extent it's a conversation you had
13 with an attorney about the case. I don't know what the
14 answer is. I just want to caution him to be careful
15 about conversations with an attorney. That's all.

16 MR. LOBSENZ: Okay.

17 Q Well, why don't you answer this question yes or
18 no. Is the very first thing you ever found out about
19 Major Witt something you learned from an attorney?

20 A No. It was from, actually, headquarters.

21 Q Okay. So what did you find out at that time?

22 A I was told that -- I received notification that
23 a complaint had been filed through the chief of staff of
24 the Air Force's Office alleging that Major Witt was
25 involved with a woman in the Spokane area. And I was

1 directed to do an investigation to find out if the
2 allegations were true.

3 Q Who is it that directed you to do an
4 investigation?

5 A It was a letter from the Air Force Reserve
6 Command Headquarters.

7 Q Air Force Reserve Command is in Robins?

8 A Yes, Robins Air Force Base.

9 Q So it's the Commander of Air Force Base Robins
10 that's sending you this directive?

11 A It actually -- I'm thinking it came through the
12 Judge Advocate's Office there.

13 Q So is there a name? Who is actually giving the
14 order?

15 A I don't know. If I had a copy of the letter, I
16 could tell you. But I don't know exactly who it was at
17 that time.

18 Q But it's someone at Robins?

19 A Yes.

20 Q Who is, at that time, Commander of Air Force
21 Reserve?

22 A Yes.

23 Q So if we just figured out who the Commander was
24 of Air Force Reserve in the Summer of 2004, that would be
25 the person probably?

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MR. DIEDERICH: Objection. Form.

BY MR. LOBSENZ:

Q Is that right?

A I believe so, yes. That would have been General Sherrard, S-h-e-r-r-a-r-d.

Q And this comes to you in the form of a written order?

A Yes, a letter from them telling me that there have been allegations and that I need to do an investigation.

Q Have you seen that letter in the last year or two?

A No, I haven't.

Q A copy.

Have you been asked to look for it?

A I don't have any of the files on the case. I left them at McChord Air Force Base when I left. So I did look to see if I had anything related to it, but I don't.

Q And this would be General Sherrard; is that right?

A Right.

Q General Sherrard, do you know where he got his orders from?

A It would have come as a notification from the

1 Chief of Staff's Office in Washington.

2 Q And the Chief of Staff for the Air Force at that
3 time was John Jumper?

4 A Yes.

5 Q So is it your understanding that general -- he
6 was a general; right?

7 A Yes.

8 Q Maybe he still is?

9 A Yes.

10 Q General Jumper sent this to General Sherrard?

11 MR. DIEDERICH: Objection. Form.

12 BY MR. LOBSENZ:

13 Q If you know?

14 A I don't know.

15 Q You don't know?

16 A I know it went to Air Force Reserve
17 headquarters. But whether he sent it directly to General
18 Sherrard or not, I don't know.

19 Q Okay. And General Sherrard directed you to do
20 an investigation?

21 A Yes.

22 Q I'm going to shift topic for a moment. Just to
23 ask you: Do you recall whether you ever reviewed any
24 Officer Performance Report for Major Witt?

25 A Not until after the investigation started, and

1 BY MR. LOBSENZ:

2 Q Okay. I'm going to use this date which you
3 signed on, May 18, 2004, for a moment as kind of a
4 dividing line and first ask you questions about up until
5 May 18, 2004. At least as of that date, had you ever
6 heard anyone make any negative comments about Major Witt?

7 A No, I hadn't.

8 Q Had you ever heard, up until that date, anyone
9 complain about her?

10 A No.

11 Q Had you ever heard anyone praise her prior to
12 that?

13 A No, I can't say.

14 Q Had you ever heard anyone, prior to May 18,
15 2004, say they suspected she was a lesbian?

16 A No.

17 Q Had you heard anyone say, prior to that date,
18 that they either assumed or believed she was a lesbian?

19 A No.

20 Q So now I will jump back to you were telling me
21 you got orders from General Sherrard to conduct a
22 fact-finding investigation; is that right?

23 A Yes.

24 Q And those orders came to you solely in the form
25 of this written order?

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A Yes.

Q Would that be sent to you by e-mail?

A Not normally. Normally, it would come by regular mail or electronically as an attachment to an e-mail?

Q Okay. And do you know what the attachments were that you got?

A No, I don't.

Q Do you know when you would have received these instructions from General Sherrard?

MR. DIEDERICH: Objection. Form.

THE WITNESS: No, I don't know the specific date.

BY MR. LOBSENZ:

Q I'll show you these documents in a moment, but there are orders from Major General Duignan to you that are dated July 7th of 2004. Are you able to say anything about approximate periods of time so that you can go backwards from when you got the orders from Duignan that you can say it must have been about a week or about a month or about five months that I got these orders from Sherrard? Can you say anything about that period of time?

MR. DIEDERICH: Objection to form.

THE WITNESS: No, I really don't know. It would

1 have been relatively quick. Normally, those things do
2 not take long.

3 BY MR. LOBSENZ:

4 Q Can you be pretty confident that it was after
5 May 18, 2004?

6 A Yes.

7 MR. DIEDERICH: Objection to form.

8 BY MR. LOBSENZ:

9 Q So sometime between May 18, 2004 and early July,
10 we can narrow it down to that period with relative
11 certainty?

12 A Yes.

13 Q Okay. Were you sent by Air Force Reserve
14 Command the complaint -- I think that's the word you
15 used -- that was sent to General Jumper?

16 A No.

17 Q You weren't. Did you ever see the e-mail
18 complaint that was sent to General Jumper?

19 A Not to my recollection.

20 Q Okay. So you get these orders from General
21 Sherrard. And does he say in his orders to you that he
22 got these from General Jumper or from General Jumper's
23 staff?

24 MR. DIEDERICH: Objection to form.

25 THE WITNESS: Yes. It was made clear that the

1 complaint had been filed through General Jumper's office.

2 BY MR. LOBSENZ:

3 Q Okay. Did you talk to anyone either over the
4 phone or in person about the complaint?

5 A No, not to my recollection.

6 Q Did you talk to General Sherrard about the
7 complaint?

8 A No.

9 Q So you get it. And what do you do with it?

10 A Our task is to find an investigating officer to
11 begin the investigation. And I had to do a Letter of
12 Designation designating the individual. And then they
13 come in and you meet with them and basically give them
14 the contacts and the information, as you know it, about
15 the investigation and the case.

16 Q Do you recall contacting General Duignan?

17 A I do not.

18 Q The court reporter has handed you what's been
19 marked as Exhibit 2. It's not very long. Why don't you
20 take the time and read it completely and just let me know
21 when you're done.

22 A Okay.

23 (Whereupon Exhibit 2 was marked for
24 identification and attached hereto)

25 BY MR. LOBSENZ:

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1 court-martial, it has to go through the person with the
2 convening authority for court-martial?

3 A That's my understanding.

4 Q And so you get number two, Exhibit No. 2 from
5 General Duignan. Does that tell you anything at all
6 about whether he makes some decision about whether it's
7 going to proceed on the court-martial track or not?

8 MR. DIEDERICH: Objection to form.

9 THE WITNESS: No.

10 BY MR. LOBSENZ:

11 Q So it still could? At least as of July 7th,
12 2004, it still could have led to a court-martial?

13 A Yes.

14 MR. DIEDERICH: Objection to firm.

15 BY MR. LOBSENZ:

16 Q Okay. When General Duignan says "I have
17 reviewed your request for authorization," is that because
18 what was prepared by the Judge Advocate General went to
19 him under your signature?

20 A Yes.

21 Q So you ask him for authority to proceed and he
22 grants that authority?

23 A Yes.

24 MR. LOBSENZ: While we are on the subject then,
25 I will ask for this last exhibit also on the 7th to be

1 marked.

2 (Whereupon Exhibit 3 was marked for
3 identification and attached hereto)

4 BY MR. LOBSENZ:

5 Q Do you recognize what's been marked as Exhibit 3
6 and handed to you?

7 A Yes.

8 Q What's that?

9 A It's a letter designating Major Adam Torem as
10 the investigating officer.

11 Q And you signed that authorization letter?

12 A Yes.

13 Q And I take it that would have been done right
14 after your receipt of the authorization from General
15 Duignan?

16 A Yes.

17 MR. DIEDERICH: Objection to form.

18 BY MR. LOBSENZ:

19 Q And I know this is probably fairly obvious, but
20 it might not be to a judge. I don't know whether the
21 judge has military experience or not. But when it says
22 on Exhibit 2, "Memorandum for 446 AW/CC," "AW/CC" is you,
23 is it not?

24 A Yes, Airlift Wing Commander.

25 Q Now, in General Duignan's orders to you of

1 Force?

2 A I don't recall reading it, no.

3 Q General Duignan, did he consult with you before
4 he authorized the fact-finding inquiry?

5 A Not that I recall.

6 Q He didn't ask your opinion whether you thought
7 an inquiry should be launched?

8 A No.

9 Q At any time do you recall giving General Duignan
10 your opinion as to whether or not a fact-finding inquiry
11 should be started?

12 A No.

13 Q Did you have an opinion as to whether one should
14 be started?

15 A No. Whenever we get directed to do one of
16 these, we -- we find an investigating officer and begin
17 the process without questioning it.

18 Q As I understand it, you're telling me: It
19 doesn't matter what my opinion was, because I've been
20 directed to do this?

21 A Exactly, yes.

22 Q Have you ever stopped and dwelt upon the
23 question of: If you had not been ordered to do it, but
24 had been allowed the discretion to decide yourself, do
25 you have any opinion as to what you would have done?

20

1 remember the date of it, just the conversation.

2 BY MR. LOBSENZ:

3 Q Well, then what happened next?

4 MR. DIEDERICH: Objection to form.

5 THE WITNESS: Next it would go to the squadron
6 commander, Coronal Walker, for her to begin action. The
7 first step in that process would be to -- for her to, as
8 the action begins, put Major Witt in a -- what we call a
9 no pay, no points status. Meaning, that she was not
10 eligible to be put on orders for duty until the
11 completion of whatever action is taken from the report.

12 BY MR. LOBSENZ:

13 Q Okay. At this point, does Coronal Walker have
14 discretion to do anything other than suspend her?

15 MR. DIEDERICH: Objection to form.

16 THE WITNESS: No, not in this case, because of
17 the way the "Don't Ask, Don't Tell" Policy is written.

18 BY MR. LOBSENZ:

19 Q Are you notified when Coronal Walker takes the
20 next step and suspends her from points and pay? Are you
21 notified when that's done?

22 A Yes.

23 Q Do you remember that?

24 A I remember it occurring. I don't remember the
25 date.

1 Q The court reporter has marked both Exhibit 5 and
2 Exhibit 6. First of all, looking at Exhibit 5, do you
3 recognize what that is?

4 A Yes, I do.

5 Q What is that?

6 A A letter from Squadron Commander Coronel Mary
7 Walker outlining actions she's taken based on the
8 investigation.

9 (Whereupon Exhibit 5 & exhibit 6 were marked for
10 identification and attached hereto)

11 BY MR. LOBSENZ:

12 Q Okay. And she is sending this to Air Force
13 Reserves Headquarters at Robins?

14 A Yes.

15 Q Is this a transmittal letter that you would have
16 seen in the normal course of business?

17 A I don't believe so. Because if I had seen it,
18 there would have been -- in the attachments, it would
19 have listed my name as an addressee.

20 Q Okay. And then if you take a look at number
21 six, do you recognize what number six is?

22 A Yes.

23 Q What's that?

24 A It's the letter from me recommending separation
25 of Major Witt from the Air Force Reserve.

1 Q Okay. That's your signatures on the bottom?

2 A Yes, it is.

3 Q That's also going to the Air Force Reserves,
4 Headquarters at Air Force Base Robins?

5 A Yes.

6 Q I don't understand why Tec Sargent Barker is
7 referred to at all in the "from" line. Is he just the
8 person --

9 A He was the person who prepared it and is the
10 point of contact, if there's administrative questions,
11 for anyone to call.

12 Q In your first paragraph it says: "The attached
13 case file pertaining to Major Margaret Witt --" I believe
14 that's her Social Security number that's blocked out "--
15 is forwarded for your review and appropriate action."

16 What is in the case file?

17 A I don't know specifically. Yes, I don't
18 remember. It would be, basically, the investigation and
19 any supporting documentation from my understanding.

20 Q It also says in the next sentence: "Also
21 forwarded is the legal review of the Commander's
22 recommendation for administrative discharge."

23 Then it says: "I concur with the legal review
24 and recommend that discharge be characterized as
25 honorable."

1 THE WITNESS: Prior to this case?

2 MR. LOBSENZ: Yes.

3 THE WITNESS: Not prior to this case, no.

4 BY MR. LOBSENZ:

5 Q So this was the first one ever that you'd ever
6 been involved with?

7 A Yes.

8 Q Okay. Since Major Witt, you have been involved
9 in subsequent investigations for discharges of a gay or
10 lesbian service member?

11 A Yes.

12 Q How many?

13 A Two.

14 Q Two more?

15 A Yes.

16 Q I don't want to know names, but were either of
17 those at Air Force Base McChord?

18 A No.

19 Q What base were they at?

20 A The Air Reserve Personnel Center in Denver.

21 Q I don't want to know names, but what would your
22 role have been in each of those?

23 MR. DIEDERICH: Objection to form.

24 THE WITNESS: In those cases, I was their direct
25 commander.

1 BY MR. LOBSENZ:

2 Q Did you initiate the discharge in those cases?

3 A Yes, through the Judge Advocate's Office at
4 Buckley Air Force Base. It's kind of a unique situation,
5 because the Air Reserve Personnel Center is made up of
6 both reserve and active duty members. And the
7 individuals were active duty members assigned to Buckley
8 Air Force Base and working at another building seven
9 miles away in the Air Reserve Personnel Center. So I was
10 their commander, but the legal action occurred through
11 the active duty at Buckley Air Force Base.

12 Q When did the first one occur?

13 A Gosh, I don't remember the exact dates. It was
14 during my tenure at Air Reserve Personnel Center. I was
15 only there 18 months. So it was -- I would -- I would
16 estimate six months into my tour there.

17 Q So that's -- and that would be 2000 --

18 A Eight.

19 Q Eight?

20 A Yes.

21 Q Let's take whatever was the first one first. I
22 don't care about the identity of the person, but how did
23 it come to your attention that this person either was or
24 might be gay or lesbian?

25 MR. DIEDERICH: Objection to form.

25

1 THE WITNESS: Circumstances were very similar to
2 Major Witt's case. It was brought to the attention of
3 the leadership at Buckley Air Force Base from a member of
4 the civilian community in Denver.

5 BY MR. LOBSENZ:

6 Q Was it someone who in the civilian community
7 lived in the same general neighborhood as wherever the
8 service member lived?

9 MR. DIEDERICH: Objection to form. I don't want
10 to start a food fight here, but we're getting into some
11 identifying details about some other cases. And I'm
12 concerned that we're going to start tripping into other
13 people's privacy rights here. And I'm not sure what
14 connection that is with the case. I realize I can't stop
15 you from asking a question, but I'm --

16 MR. LOBSENZ: Okay. Well, I'm sensitive to the
17 whole problem anyway. Although, this is apparently not a
18 situation where I can possibly, by asking questions, get
19 the person in trouble, because they're already in trouble
20 and, apparently, have already been discharged. But I
21 won't ask -- I will withdraw that question.

22 Q This person, it just helps to differentiate from
23 the second person. Is this person a man or woman, the
24 first one?

25 A A woman.

1 Q This person did get discharged ultimately?

2 A Yes.

3 Q Did this person request an administrative
4 discharge hearing and have one?

5 A Not to my knowledge.

6 Q The second person, was that a man or woman?

7 A A woman also.

8 Q And what were the general circumstances of how
9 it came to your attention that that person was suspected
10 of being a lesbian?

11 A It was the same. It was a member of the
12 civilian community coming to the supervisory personnel at
13 Buckley Air Force Base.

14 Q Both of these people worked directly for you?

15 A Yes.

16 Q So you're quite familiar, in both cases, with
17 the quality of service that they rendered to the Air
18 Force?

19 A Yes. It was similar to Major Witt. They worked
20 in another branch of the Air Reserve Personnel Center.
21 We had about 600 people that worked there. And they
22 worked for me through a supervisor similar to Coronal
23 Walker being supervisor for Major Witt.

24 Q With respect to the first woman, did you have
25 any reason to believe that that woman was causing any

1 problem with unit morale or unit cohesion?

2 MR. DIEDERICH: Objection to firm.

3 THE WITNESS: No.

4 BY MR. LOBSENZ:

5 Q With respect to the second woman, did you have
6 any reason to believe that woman was causing any problem
7 with unit moral or unit cohesion?

8 A No.

9 MR. DIEDERICH: Same objection.

10 THE WITNESS: No.

11 BY MR. LOBSENZ:

12 Q Did the second woman request a hearing at Robins
13 to contest her discharge?

14 A No. Their chain of command went through the
15 active duty chain of command and not Robins, because they
16 were active duty members.

17 Q Did they request a hearing, either one of them?

18 A Not to my recollection.

19 Q And so the second one was also discharged?

20 A Yes.

21 Q Okay. Other than those two -- and you initiated
22 both of those two?

23 A That's right.

24 Q Other than those two and Major Witt, have there
25 been any other occasion where you have been involved in

1 far. So I thought I would beat him to the punch. But it
2 sounds to me that you're sort of maybe telling me
3 something very similar to being a lawyer; you're a
4 lawyer, and if you are assigned to represent someone, you
5 have a job to do, it doesn't matter what you personally
6 think about them or perhaps the merits of their case; is
7 that what you're telling me?

8 A Yes, that's correct.

9 Q So it would be fair for me to conclude that your
10 personal opinion is it's not a wise policy?

11 MR. DIEDERICH: Objection to form.

12 THE WITNESS: I think it's wise and it was
13 written with the best of intents at the time to allow gay
14 and lesbian people to serve in the military. But as
15 society has evolved and as societal attitudes have
16 evolved, I think it needs review.

17 BY MR. LOBSENZ:

18 Q You think it's needed anymore?

19 MR. DIEDERICH: Objection to form.

20 THE WITNESS: I don't know. That's a tough
21 question.

22 BY MR. LOBSENZ:

23 Q Okay. Have you ever had any occasion to study
24 the issue of whether serving openly, whether gays or
25 lesbian serving openly in the military has any effect on

1 unit cohesion?

2 A No, I have.

3 Q Have you ever read anything that addresses that
4 issue?

5 A No, I have not.

6 Q So I take it you've never given any opinion in
7 any legal matter on that subject?

8 A No.

9 Q Are you aware of any evidence that the open
10 presence of gays and lesbians in the military has a
11 negative effect on unit cohesion?

12 MR. DIEDERICH: Objection to form.

13 THE WITNESS: No, I'm not.

14 BY MR. LOBSENZ:

15 Q Do you know an Officer Nate Lathrup who served
16 in the 446?

17 A No, that name's not familiar to me.

18 Q Toward the end of your time at the 446, did you
19 have occasion to hear of an officer in the 446 who was
20 apparently running a website with photos of scantily clad
21 women?

22 A No, I wasn't aware of that.

23 Q You are not aware of any officer being
24 discipline in the 446 for anything like that?

25 A No, not that I'm aware of, no.



DEPARTMENT OF THE AIR FORCE
AIR FORCE RESERVE COMMAND

July 7, 2004

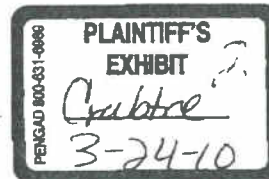
MEMORANDUM FOR 446 AW/CC

FROM: 4 AF/CC
885 Baucom Ave SE
March ARB CA 92518-2266

SUBJECT: Homosexual Conduct Fact-Finding Inquiry

1. I have reviewed your request for authorization to proceed with a fact-finding inquiry of homosexual conduct by Major Margaret Witt, 446 AES.
2. I have also reviewed the evidence and find the information provided to me, considering its source and surrounding circumstances, supports a reasonable belief that there is a basis for conducting an investigation. Therefore, I authorize this fact-finding inquiry.


ROBERT E. DUIGNAN, Maj Gen, USAFR
Commander



DEPARTMENT OF THE AIR FORCE
Headquarters 446 Airlift Wing (AFRC)
McChord Air Force Base, Washington 98438-1326

MEMORANDUM FOR MAJOR ADAM TOREM

7 July 2004

FROM: 446 AW/CC

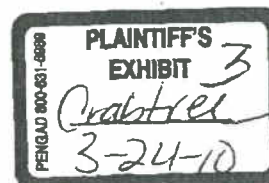
SUBJECT: Homosexual Conduct Fact-Finding Inquiry

1. This letter appoints you to inquire into the allegation that a member of the 446 AW has engaged in homosexual conduct.
2. Report facts, opinions, and recommendations in letter form by 23 July 2004, unless an extension is granted. Ensure facts, opinions, and recommendations made are appropriately characterized. Refer to the Air Force's guidebook on Commander Directed Investigations (CDI) before beginning the investigation.
3. Consult with the Staff Judge Advocate prior to investigation.
4. By copy of this appointing order, members of 446 AW will provide the necessary assistance to help you in executing this tasking. Access to records germane to this investigating and clerical assistance will be provided.

Eric W. Crabtree
ERIC W. CRABTREE, Colonel, USAFR
Commander, 446 AW

Attachment:

4 AF/CC memorandum





DEPARTMENT OF THE AIR FORCE
446TH Airlift Wing (AFRC)
McChord AFB WA 98438-1326

22 DEC 04

MEMORANDUM FOR: HQ AFRC/DPML
1000 Marchbanks Rd Bldg 1400
Robins AFB GA 31098-2300

FROM: 446 AW/CC (TSgt Barker, DSN 382-2964)
1205 12th Street NE, Suite 102W
McChord AFB WA 98438-1326

SUBJECT: Recommendation for Separation Action - Major Witt, Margaret H.

1. The attached case file pertaining to Major Margaret H. Witt, [REDACTED] is forwarded for your review and appropriate action in accordance with AFI 36-3209, chapter 2, paragraph 2.30.1.1. Also forwarded is the legal review of commander's recommendation for administrative discharge. I concur with the legal review and recommend the discharge be characterized as Honorable.
2. Major Witt's last known mailing address is:
1022 W 19th Ave
Spokane WA 99203

Eric W. Crabtree
ERIC W. CRABTREE, Col, USAFR
Commander

Attachments:

1. Review for legal sufficiency
2. Commander's report with attachments

