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The Effects of Including Gay and Lesbian Soldiers in the Australian Defence Forces: Appraising the Evidence

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I. Executive Summary

In November 1992, the Australian Defence Forces lifted its ban on open gay and lesbian soldiers. Using all available data from military, academic, non-governmental, and other sources, this report assesses the extent to which the lifting of the gay ban has affected the well-being and performance of the Australian military.

Based on the results of prior studies, eighteen in-depth interviews with informed military and non-military observers, and other data, this study finds that the full lifting of the ban on gay service has not led to any identifiable negative effects on troop morale, combat effectiveness, recruitment and retention, or other measures of military performance. Furthermore, available evidence suggests that policy changes associated with the lifting of the ban may have contributed to improvements in productivity and working environments for service members. Key findings include:

- Senior officials, commanders, and military scholars within the ADF consistently appraise the lifting of the ban as a successful policy that has contributed to greater equity and effective working relations within the ranks.
- Prior to the lifting of the ban, ADF service chief argued that allowing homosexuals to serve openly would jeopardize recruitment, troop morale, and combat effectiveness while also spreading AIDS and encouraging predatory behavior
- Senior officials, commanders and scholars report that there has been an overall pattern of disruption to the military. However, some individuals have reported disruptions that were resolved successfully through

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management procedures.

- While the lifting of the ban was not immediately followed by large numbers of personnel declaring their sexual-orientation, by the late 1990s numbers of officers and enlisted personnel had successfully and ineffectually come out to their peers.
- Recruitment and retention rates have not suffered as a result of the change. As Commodore R. W. Gates of the Royal Australian Navy said in the report, "There was no great peak...where people walked out, and there was no great dip in recruiting. It really was a non-event."
- Self-identified gay soldiers, officers, and commanders describe good working relationships in an environment that emphasizes capable and competent job performance under uniform rules of conduct for all personnel. Gay soldiers and commanders have successfully served active deployments in East Timor.
- Complaints regarding sexual orientation issues comprise less than 1% of the total complaints received by the ADF of incidents of sexual harassment, bullying, and other forms of sexual misconduct.
- Of 1,400 calls received by an anonymous "Advice Line" maintained by the ADF to help personnel and commanders manage potential misconduct issues since this service was initiated in August 1998, 17 (1.21 percent) have related to sexual orientation issues.
- Current debates in Australia related to the policy change are now focused on extending equal benefits to the partners of gay servicemembers rather than on the policy itself. To the degree that harassment issues continue to exist in the Australian Forces, most observers believe that problems exist by women soldiers are more serious than those faced by gay personnel.

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II. Introduction

Prior to 1992, the Australian Defence Forces (ADF) maintained both formal and informal rules to discourage known or suspected homosexuals from serving (Smith 2000, Agostino 2000). As a result of a number of external and internal pressures, in 1992 the Defence Forces issued a new directive that lifted the remaining ban on homosexual service by specifying uniform rules of appropriate and inappropriate sexual conduct that applied equally to both heterosexual and homosexual interactions. The change in policy met with strong opposition from the ADF service chiefs as well as from several service member organizations that argued that allowing homosexuals to serve openly would jeopardize troop cohesion, and combat effectiveness while also spreading AIDS and encouraging predatory behavior (see e.g., Associated Press, 24 November 1992). In the months that followed the policy change, however, the issue largely faded from the public stage.

This report integrates prior studies of gay-military issues in Australia, prior coverage, Australian Forces data, and interviews with eighteen ADF official and academic observers, non-governmental actors, interest groups, and enlisted personnel.

and synthesize evidence provided by a variety of sources. Whenever possible, we compare independent observations from multiple sources to elucidate findings that are consistent among observers in different sectors (e.g., military, academic, and non-governmental). During the interview process, we also sought to ensure that the universe of sources drawn upon for the study was complete by repeatedly asking observers from different sectors for recommendations of additional informants and sources of information. While it is possible that additional confidential informants on outcomes not documented in this report may be maintained by the Air Force, senior officials contacted for this study were not aware of any additional informants. A final compilation of sources that informs this report thus reflects an exhaustive inventory of relevant data and opinions.

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IV. Context of the 1992 Lifting of Remaining Ban

A. Australian Society and Military Policy Regarding Homosexuals Prior to 1992

Like the Armed Forces in many other Anglophone countries, the Australian military maintained both formal and informal rules proscribing the participation of known homosexuals in the armed forces from 1986 to 1992. Prior to 1986, the ADF did not maintain a formal policy regarding the participation of homosexuals. According to a report by United States General Accounting Office (1993), the ADF was not formally questioned about their sexual orientation before 1986. However, informal efforts frequently were made to identify and document activities of personnel suspected of homosexual conduct, usually following the removal of such personnel from duty (Agostino 2000). Existing state and federal laws proscribing sodomy and homosexual relations usually were invoked to enforce these actions (Croome 1992, 9; Livingstone 2000).

While most historical perspectives on the treatment of homosexual personnel have identified a number of instances of investigation and prosecution (ranging from the 1950s to by some critics as "witch hunts") between World War II and the mid-1990s, substantial evidence nonetheless exists that homosexuality was at times tolerated, if not informally accepted in some units (Smith 2000). Anecdotal evidence provided by most experts interviewed for this report also indicates that many personnel were aware that practicing homosexuals served in the ranks.

In the 1980s, as Australia incorporated international human rights accords into national laws, federal and state governments actively dismantled existing laws against homosexuality and began to ratify new human rights bills that in part provided protection against arbitrary discrimination. As a result, the ADF could no longer justify anti-homosexual practices on the basis of territorial laws and was required to issue its own policy. It did so in September 1986, and the ban on homosexuals in military service became an explicit and formal part of ADF instructions (Croome and Smith 1995).

Even so, according to Hugh Smith, Associate Professor of Politics at the Australian Defence Force Academy, the policy of banning gays was exercised with a certain degree of tolerance and senior military officials often used discretion to determine whether or not to implement the gay ban (Smith 2000). At the same time, however, other persons familiar with the situation between 1986 and 1992

that the military routinely engaged in "witch hunts" to root out members suspected of homosexuality. According to Dr. Katerina Agostino of the M University Department of Sociology, "The military invested lots of time a money in finding and rooting people out. Military police were used" (Agostino 2000)"

B. Context of the Policy Change

In the late 1980s and early 1990s, a number of economic, social and cultural factors served to undermine the perceived legitimacy and rationale of the ban on homosexual service. To begin, military leaders encountered critical ADF policies concerning equality of opportunity and racial and ethnic diversity. In 1992, the government examined charges that the ADF was not recruiting a sufficient portion of its soldiers from non-European populations and the role of a major study of the ethnic makeup of the forces (Smith 1995, 535). Dealing with the status and treatment of women in the ADF also influenced the perceived legitimacy of the ban on gay service. Though women had been able to participate in the Australian military for many years, either directly or through auxiliary branches like the Women's Royal Australian Army Corps, they were not taken into combat roles until the late 1980s. Smith points out that the three services began to face difficulties in retaining qualified personnel: "The services had a clear incentive to open more positions to women, thereby expanding the pool of potential recruits" (Smith 1995, 540). Related to these problems, Smith also discusses "considerations of sexual harassment and problems of sexual behavior in the military that began to come to light. In late 1992, three women who had served on board the *HMAS Swan* alleged that they had been sexually harassed quite severely by their male shipmates. Similar to the Tailhook sexual harassment scandal in the United States, the case provoked widespread outrage and a call for the military to examine gender issues in the forces (Agostino 2000, Smith 1995, 535)." (Smith 2000).

In the years shortly before government and ADF officials considered lifting the ban on homosexuals, Australia adopted several human rights measures in laws and codes including the International Convention on Civil and Political Rights. Article 26 of the ICCPR posits the fundamental equality of all human beings and Article 2 addresses each individual's right to equal treatment under the law (Sidoti 2000). Although sexual orientation is not included in the ICCPR's list of prohibited justifications for discrimination, Australian Human Rights Commissioner Chris Sidoti says that the ICCPR's list was meant to be inclusive rather than exclusive. Therefore, Sidoti continues, although not explicitly mentioned, sexual orientation is covered by the spirit of the ICCPR and it should be served as the basis of discrimination. Opponents of the ADF ban argued that the military was in violation of these human rights provisions in Australian law.

As civil rights considerations came to play an increasingly important role in the Australian political landscape, the ADF encountered a number of social and international trends that changed its understanding of its own mission and relationship with civilian society. In particular, the end of the Cold War forced the ADF to reevaluate its role as a fighting force and many Australians came to see military service as a temporary occupation rather than a long-term career. Professor Hugh Smith has argued that during the Cold War, many Australians regarded the military as a calling and a lifetime vocation (1995). According to Smith, the old mindset, a career in the armed forces meant that military life always had precedence over other priorities. Smith says that according to the new "occupational" mindset of many Australians, however, a military career is

another job." Except in extraordinary circumstances like combat, soldiers expect regular working hours, free weekends, pension and benefits, and freedoms and privileges associated with the civilian world. In the late 1980s and early 1990s, much of Australian society moved toward an occupational class society on most careers including military service, and just as the rest of Australian society was moving toward greater tolerance and support for individual freedoms, the military found itself needing to adjust (Smith 1995, 536-37). As the center-left/left party in Australian politics, the Labour government controlled Parliament in the late 1980s and early 1990s faced some disaffection within its own ranks over social issues such as the lifting of the ban on gay lesbians in the military. As Croome (2000) points out, some members of the caucus supported "traditional family values" and opposed lifting the ban. Others were traditional progressives, committed to an expansion of what they considered were equal rights for all Australians.

In a 1990 test of the military ban on homosexuals, a servicewoman made a formal complaint to the Australian Human Rights and Equal Opportunities Commission and contended that her discharge had been partially based on the fact that she was a lesbian. The HREOC asked the ADF to explain the reasons behind its ban on homosexual service, and some observers believe that the complaint was a serious challenge to ADF policy and that it may have prompted the ADF to review its rationale for discrimination (UK Ministry of Defence H1-1; Smith 1995, 544; Croome 1992, 10). In February 1992, the Minister of Defence Science and Personnel informed Parliament that the federal government would review the ADF's ban (Croome 1992, 10). In June 1992, however, the Defense Minister told Parliament that following the recommendation of the Joint Staff, the Government would not lift the ban. Gay activists condemned the declaration as hypocritical and prejudiced. (Agence France Presse, 18 July 1992).

In reaction, the Government formed a special party committee to study the matter, to accept submissions from interested groups, and to make policy recommendations for the government. In September 1992, this committee recommended that the ban be dropped "immediately." The Caucus Committee also recommended that the ADF undertake a survey of members' attitudes and engage in an education campaign as part of the lifting of the ban. Committee members who favored lifting the ban contended that the military was not significantly different from other organizations and thus should not be exempt from anti-discriminatory policy changes being made elsewhere. Those who opposed the removal of the personnel restrictions contended that such a change would hinder the military's operational effectiveness, combat performance, and morale. At the time, an ADF spokesperson said that the military would find removal of the ban "disturb[ing]" and would likely react with disgust (Agence France Presse, 18 September 1992).

C. The Lifting of the Ban and Immediate Reactions

In late November 1992, the Cabinet accepted the Caucus Committee's recommendation and the Government voted to drop the ban on the service of gays and lesbians in the Australian military. Although the Defense Minister and the service chiefs opposed the removal of the ban, the Attorney General, the Health Minister, and the Prime Minister all supported its removal. The Attorney General argued that Australia's policy violated international human rights agreements not to discriminate against people based upon sexual orientation. The Health Minister said that by pushing military members to keep their

relationships "underground", the ban contradicted efforts to fight AIDS. | Minister Paul Keating then made the decision to accept the policy change order its immediate implementation in the entire ADF. (Agence France Pi November 1992; United Press International, 23 November 1992; Reuter: November 1992.)

In place of the previous military regulation banning gays and lesbians fr service, the government issued a more general instruction on "sexual mi policy." Among other provisions, the new instruction referred to unaccep conduct without making a distinction between homosexuality and hetero Rather than define what was unacceptable based upon sexual orientatio other words, the new instruction prohibited any sexual behavior that ne impacted group cohesion or command relationships, took advantage of subordinates, or discredited the ADF (Smith, 1995, 545). Thus, for exam "homosexual advances" were not illegitimate; threatening sexual behavi And the policy provided commanders with some latitude to judge whethe certain behavior was acceptable or not in a certain context. According to prepared by the British Defence Ministry, the Australian policy "recognis sexual relations are a part of adult life and are predominately a private n each individual. Nevertheless, the ADF is concerned with the sexual beha its members where it is inconsistent with the inherent requirements of tr or where it is unlawful. ...The term 'Unacceptable Sexual Behaviour' is nc and thus left to a wide variety of command interpretation. This lack of prescriptive definition of unacceptable behavior is in line with the Austral Discrimination Act's emphasis on what is reasonable in the circumstance recipient's response to such behaviour" (UK Defence Ministry 1996, H1-3

Reaction to the Australian change was swift and severe. The Returned ar Services League, Australia's largest veterans group, condemned the poli and argued that allowing open homosexuals to serve would shatter unit and lead to a deterioration of trust among soldiers, thus undermining the fighting effectiveness (Associated Press, 24 November 1992). Other opp raised the specter of AIDS and said that the battlefield practice of direct blood transfers would lead to an increased incidence of HIV infection. Ev the military, however, opinion seemed to be somewhat mixed (Associate 9 December 1992). As of January 1993, however, no members of the AL declared themselves to be gay to military authorities (Associated Press, January 1993). Early reports generated in the immediate aftermath of th change indicated that the ADF did not experience any decline in recruitin combat performance and media attention to the issue largely disappear approximately six months after new policy's implementation (New York T April 1993).

After the lifting of the ban, the ADF introduced a variety of new program training courses to enforce and support the provisions of the Defence In: on Discrimination, Harassment, Sexual Offences, Fraternisation and othe Unacceptable Behavior in the Australian Defence Forces (2000). In 1997 responsibilities for monitoring, education, and enforcement of the Instru were consolidated into the new Defence Equity Organization (DEO) that directly to the Defence Personnel Executive (the head of personnel for th Currently, the DEO is planning to provide additional support for the integ gay and lesbian soldiers by creating a new training course (Grey 2000).

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