

TESTIMONY RELATING TO THE “DON’T ASK,  
DON’T TELL” POLICY

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HEARING  
BEFORE THE  
COMMITTEE ON ARMED SERVICES  
UNITED STATES SENATE  
ONE HUNDRED ELEVENTH CONGRESS  
SECOND SESSION  
MARCH 18, 2010

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## 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, E. Benjamin 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; and Richard F. Walsh, minority counsel.

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; and 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

we'll establish, and we'll pick up that order at 10 o'clock, when we will begin our hearing.

But, we are going to recess now until 10 o'clock or a few minutes thereafter.

We will stand in recess. [Recess.]

The committee will come to order.

We meet this morning to continue to receive testimony on the "Don't Ask, Don't Tell" policy on gays in the military.

The Secretary of Defense testified before this committee, on February 2, 2010, that he supported the President's decision to work with Congress to repeal the law known as "Don't Ask, Don't Tell," and said that, "The question before us is not 'whether' the military prepares to make this change, but 'how' we best prepare for it."

At the same hearing, Admiral Mullen, the Chairman of the Joint Chiefs of Staff, expressed his personal belief that allowing gays and lesbians to serve openly could be the right thing to do. He said, "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," he said, "it comes down to integrity, theirs as individuals and ours as an institution."

Today, we will hear testimony from witnesses who do not represent the Department of Defense (DOD), although each of them has served with distinction in the military.

We welcome General John Sheehan, United States Marine Corps, retired. While on Active Duty, General Sheehan served in various command positions, ranging from company commander to brigade commander in both the Atlantic and Pacific theater of operations. General Sheehan's combat tours included duty in Vietnam and Operations Desert Shield/Desert Storm. His last assignment was as Supreme Allied Commander, Atlantic and Commander in Chief, U.S. Atlantic Command.

Michael Almy served as an Active Duty Air Force officer for 13 years before he was discharged in 2006 under "Don't Ask, Don't Tell." He deployed to the Middle East four times during his Active Duty career, serving in Operation Desert Fox, Operation Southern Watch, and Operation Iraqi Freedom. He was named Officer of the Quarter and Officer of the Year several times throughout his career, and in 2005 was named the top communications officer for the Air Force in Europe and was recommended for promotion to lieutenant colonel prior to his discharge in 2006.

Jenny Kopfstein, a Naval Academy graduate, served on Active Duty in the Navy for nearly 3 years. She revealed her sexual orientation to her commanding officer during her first shipboard assignment. Apparently, knowledge of her sexual orientation had no impact on her duty performance, as she was sent on a second deployment in support of Operation Enduring Freedom. She earned several awards and honors, and was promoted during her service. Significantly, two of her commanding officers testified at her separation hearing that, while they understood she was a lesbian, she was an excellent officer who should remain in the Navy. Despite that testimony, Ms. Kopfstein was discharged under "Don't Ask, Don't Tell" in 2002.

Cases like this make it clear to me that we should repeal this discriminatory policy. I do not find the arguments used to justify “Don’t Ask, Don’t Tell” convincing, I did not find them convincing when it took effect in 1993, and they are less so now, as made evidence by the experiences of Mr. Almy and Ms. Kopfstein and so many like them. What matters is a willingness and an ability to perform the mission, not an individual’s sexual orientation.

In the latest Gallup poll the American public overwhelmingly supports allowing gays and lesbians to serve openly in the military. Sixty-nine percent of Americans are recorded as supporting their right to serve, and many gays and lesbians are, in fact, serving in our military.

As former Chairman of the Joint Chiefs of Staff, General John Shalikashvili, who supports ending the policy, has pointed out, the majority of troops already believe they serve alongside gay or lesbian colleagues. It’s hard to know for sure, but one recent study estimated that 66,000 gays and lesbians are serving today, forced to hide their orientation, at a constant risk of losing the chance to serve.

Supporters of the current “Don’t Ask, Don’t Tell” policy argue that allowing gays and lesbians to serve openly would damage unit cohesion and morale, crucial factors in building combat effectiveness. But, there is no evidence that the presence of gay and lesbian colleagues would damage our military’s ability to fight. Gay men and women are serving now, and their fellow servicemembers often know that they are serving with them. Their service is not damaging unit cohesion and morale.

Other nations have allowed gay and lesbian servicemembers to serve in their militaries without discrimination and without impact on cohesion or morale. The most comprehensive study on this was conducted by RAND in 1993. RAND researchers reported on the positive experiences of Canada, France, Germany, Israel, the Netherlands, and Norway, all of which allowed known homosexuals to serve in the Armed Forces. We’ve asked the Department to update that 1993 report.

Mr. Almy and Ms. Kopfstein were discharged, not because of their duty performance, not because their presence interfered with unit cohesion, and not because their sexual orientation compromised the military mission; they were discharged solely on the basis of who they are, what their sexual orientation is.

Senator Lieberman has introduced the Military Readiness Enhancement Act of 2010, of which I am cosponsor, that would replace the current policy concerning homosexuality in the Armed Forces with a policy of nondiscrimination on the basis of sexual orientation.

I hope we can move quickly and deliberately to maximize the opportunity for all Americans to serve their country. We can and should do that in a way that honors our Nation’s values while making us more secure.

The committee has received many statements for the record. Some of them are from: American Veterans for Equal Rights; Center for American Progress Action Funds; Association of the Bar of the City of New York; Servicemembers United; Human Rights Campaign; and Servicemembers Legal Defense Network. They and

other statements that are relevant to this subject and will be made part of the record.

[The prepared statements of: American Veterans for Equal Rights; Center for American Progress Action Fund; Association of the Bar of the City of New York; Servicemembers United; Human Rights Campaign; and Servicemembers Legal Defense Network follow:]

[See Appendix A]

Chairman LEVIN. Senator McCain.

#### **STATEMENT OF SENATOR JOHN MCCAIN**

Senator MCCAIN. I thank you, Mr. Chairman.

I join you in welcoming our witnesses, thanking each of them for their military service and their willingness to share their views with us today.

As we all know, the committee's focus today is on the "Don't Ask, Don't Tell" policy, which, since 1993, has not barred gay and lesbian individuals from serving in the Armed Forces. It has not barred gay and lesbian individuals from serving in the Armed Forces, but it's prevented them from doing so openly. We will hear testimony for and against the policy based on our witnesses' military experience. I look forward to listening with an open mind, and learning from each of them. I urge all my colleagues to do the same.

Since early February, our committee has received testimony on this issue from Secretary Gates and the Service Secretaries, echoing the desire of the President, a campaign commitment, to have Congress repeal the "Don't Ask, Don't Tell" policy. We've also heard the moving personal views of Admiral Mullen and several of the combatant commanders during their posture hearing testimony.

Finally, we've heard from the Service Chiefs, who have responsibility under law for the organization, training, and overall readiness of their forces, and for providing their best military advice to the President on matters that might affect their ability to ensure sufficiently trained and ready forces. Each of the Service Chiefs has expressed his support for the comprehensive high-level review that Secretary Gates has directed. However, each has indicated that he is not prepared to support a repeal of the "Don't Ask, Don't Tell" policy at this time. Each has also testified that he opposes your suggestion, Mr. Chairman, of a moratorium on discharges while the review is being conducted.

Based on their testimony, I urge my colleagues to await the completion of the review in order to give the Service Chiefs the information they have asked for before any attempt is made to legislate a change for political reasons that our military leaders will be required to implement.

I will strongly oppose any attempt to change the current law based on an incomplete and inadequate review of this policy. I appeal to all my colleagues to take this approach in the interest of national security.

With respect to the review itself, I have expressed my concerns about its focus and scope. Unfortunately, in his testimony to this committee, Secretary Gates described the mandate as "A review of

the issues associated with properly implementing a repeal of the 'Don't Ask, Don't Tell' policy. The guiding question," as Secretary Gates put it, "should be not whether the military prepares to make this change, but how we best prepare for it." This is consistent with the President's goals, but it gets things backwards.

The current Pentagon review should be an objective study of the relevant military issues, not an implementation plan. This issue that Congress must decide, and the issue the Service Chiefs should be asked to give their best military advice about, is whether the "Don't Ask, Don't Tell" policy should be repealed. We should ask that question to our Service personnel at all levels, and their families and genuinely consider their views in our debate. Clearly there are many policy and logistical challenges that would have to be overcome if the law is repealed, but that should not be the primary focus of this review.

I will continue to insist that we use the next 8 months to study not "how" to implement a change to the current policy, but "whether" and "why" the men and women of the Armed Forces—the generals, the officers, the noncommissioned officers, and the privates—support or oppose such a change. I would then expect, and I think the American people have every right to expect, the views of the Service Chiefs to incorporate this critically important information.

As I have stated before, I am proud and thankful for every American who chooses to put on the uniform of our country and serve this Nation, particularly in this time of war. The "Don't Ask, Don't Tell" policy is not perfect, but it reflects a compromise achieved with great difficulty that has effectively supported military readiness. However imperfect, the policy has allowed many gay and lesbian Americans to serve their country. I honor their service. I honor their sacrifices, and I honor them. We should not change the current policy until we are confident, from a military standpoint, with the informed advice of the Service Chiefs, that such a change is consistent with military effectiveness.

I would ask, also, for unanimous consent, that copies of recently passed resolutions from the American Legion, the largest veterans service organization, with a membership of 3 million veterans, and the Veterans of Foreign Wars of the United States, with a membership over 1,500,000, recommending against repeal of the current law, be included in the record.

Chairman LEVIN. They will be made part of the record.  
[The information referred to follows:]

[See Appendix B]

Senator MCCAIN. Finally, in summary, and I would say to my colleagues, we have the best-trained, best-equipped, most professional military that I have known in the many, many years I've had the honor of serving and knowing men and women in the U.S. military. Retention and recruitment is at an all time high in the history of the All-Volunteer Force. We are in two wars. Before we implement a change in policy that clearly, by objective indicators, seems to have given us a best military that we have had in the history of this country, that we ought to have a careful and thorough review, not only of the views of the men and women in the military

who serve at the top, but the views of the men and women who are serving today in harm's way.

I thank you, Mr. Chairman.

Chairman LEVIN. Thank you very much, Senator McCain. We'll now turn to General Sheehan.

**STATEMENT OF GEN. JOHN J. SHEEHAN, USMC (RET.), FORMER SUPREME ALLIED COMMANDER, ATLANTIC, AND FORMER COMMANDER IN CHIEF, U.S. ATLANTIC COMMAND**

General SHEEHAN. Mr. Chairman, thank you very much. If you have no objections, I'd like to read my statement—

Chairman LEVIN. That'd be fine. Is your mic on?

General SHEEHAN. It is. Yes, sir.

Chairman LEVIN. Thank you.

General SHEEHAN. First, thank you for the opportunity to testify before this committee on a very complex issue. I'm here not out of any political conviction, but because I was asked by this committee to share my views as part of the debate in this issue. From my previous experiences with this committee, I know this committee is charged with an awesome responsibility that is, in part, shared with the Commander in Chief, but the Constitution commits, exclusive to Congress and this body, the responsibility to raise and regulate this Nation's Armed Forces.

My point of view and convictions were formed from my experience during 35 years of service as a Marine Corps infantry officer who has served in combat, led a platoon, three companies, an infantry battalion, and an infantry regiment. My career also includes command of units from 26 different nations.

My basic belief is that everyone can and should serve this great country in some way. We also know and agree that not everybody is qualified or eligible to serve in the military, for a variety of reasons, including age, health, education, and so on.

The 1993 review, which resulted in the adoption of section 654 of title 10 U.S.C., arrived at a number of findings. The most important in my mind, that there is no constitutional right to serve in the Armed Forces. The findings of 1993 also confirmed something that my family and I already knew and accepted, which is that military life is fundamentally different from civilian life, and that military society is characterized by its own laws, rules, customs, and traditions, including numerous restrictions on personal behavior that would not be accepted in normal civilian life.

I can acknowledge that popular culture has changed in many ways. However, the nature and requirements of military life have changed very little. Military culture is deliberately developed and structured to mold individuals from all walks of life into a coherent group that willingly sacrifices self for the strength of the unit. In fact, the cohesion of a unit is predicated, in part, on the lack of individuality of its members. No special accommodations need to be afforded to anyone of them. To the degree possible, we try to make marines interchangeable. This makes the military a unique institution within the broader American society. It asks—no, it really demands—that individuals put aside individual interests and behavior for the good of the unit. Self-sacrifice is the cornerstone of the unit cohesion that builds effective combat organizations.

The “Don’t Ask, Don’t Tell” policy, however awkward and difficult, reinforces the critical maxim that, first and foremost, you are a soldier, sailor, airman, or marine. Your preferences and desires are not relevant. Effectiveness in training and mission accomplishment on the battlefield are the standards that you judge them by.

Because the military is a human institution, it is, by definition, imperfect, and there are some who fail to maintain their eligibility after entry, thus rendering them ineligible for further service. The past good work of servicemembers who are attracted to the same sex is an indication of only one thing: that they have been able to serve well prior to becoming ineligible.

To my knowledge, nobody’s making the argument that a man or woman being attracted to the same sex debilitates them, either intellectually or physically. The question under review is whether the behavior of a person who openly declares a sexual attraction to the same sex directly or indirectly contributes to the—or detracts from—military cohesion. Make no mistake, this is not about consideration being given to someone who wants to serve in the military despite being attracted to the same sex, this particular argument has to do with the supposed right to declare oneself to be sexually attracted to a particular segment of the population, and insist on continuing to live in the most intimate proximity with them.

If this committee were able to clearly demonstrate that this change would improve military effectiveness, then the change should be implemented. But, if someone were to insist on implementation because of an ulterior motive other than clear evidence and there was an uncertainty about the effect it would have on the unit cohesion, then that is a risk I would not recommend or support in today’s environment.

As we sit here today, U.S. Forces are deployed in Iraq and Afghanistan, fighting an armed enemy sworn to destroy our way of life. Our enemies respect and fear the United States combat capability. Unfortunately, our enemies, especially the extremists, do not care how enlightened or progressive our culture may be. The only thing that matters is the effectiveness on the battlefield.

For over 200 years, the Marine Corps and other elite combat formations, like Special Forces, Airborne, and Ranger units, have developed training and performance-based systems that breed success in the battlefield. Effective units need to act as a coherent unit. As the law says, military life is fundamentally different from a civilian life. This is a difficult reality to accept for individuals who have never served or had such exposure to our Armed Forces. It goes well beyond just wearing a uniform to work on a daily basis. More than once, during my military career, the unacceptable behavior of one selfish marine has created a single point of failure for his unit and endangered lives. In every instance unit polarization occurred because of this selfish behavior.

I also know that some will argue that the circumstances of warfare are different. I would argue that, in many ways, they’re very similar. Selfish behavior in Vietnam, Khafji, or Fallujah can affect entire units and detract from the success of combat missions. To state the obvious, warfare is difficult, ugly business. Congress should not impose more uncertainty in a battlefield that is already complex enough.

Each member of this committee must, in his or her own mind, feel absolutely certain that the change of the current law will improve this Nation's combat effectiveness and minimize the risks our young men and women face in today's battlefield. The change must also reduce the current environment of a hostile workplace that exists and is increasing today.

Thank you very much for the opportunity to testify.  
[The prepared statement of General Sheehan follows:]

PREPARED STATEMENT BY GEN. JOHN J. SHEEHAN, USMC (RET.)

Thank you for the opportunity to testify before this committee today on a very complex issue. I am here not out of any political conviction but because I was invited by this committee to share my views as part of the debate on this issue.

From my previous experiences with this committee I know the committee is charged with an awesome responsibility that is in part shared with the Commander in Chief. But the Constitution commits exclusively to Congress the responsibility to raise and regulate this Nation's Armed Force.

My point of view and convictions were formed from my experiences during my 35 years of service as a Marine Corps infantry officer who has served in combat led a platoon, three companies, an infantry battalion, and an infantry regiment. My career also includes command of units from 26 other nations.

My basic belief is that everyone can and should serve this great country in some way, but we also know and can agree that not everyone is qualified or eligible to serve in the military for a variety of reasons including age, health education and so on.

The 1993 review which resulted in the adoption of Section 654 arrived at a number of findings; the most important in my mind was that "there is no constitutional right to serve in the armed services." The findings of 1993 also confirmed something that my family and I already knew and accepted which was that "military life is fundamentally different from civilian life; and "that military society is characterized by its own laws, rules, customs, and traditions, including numerous restrictions on personal behavior, that would not be acceptable in normal civilian society."

We can all acknowledge that popular culture has changed in many ways. However, the nature and requirements of military life have changed very little. Military culture is deliberately developed and structured to mold individuals from all walks of life into a coherent group that willingly sacrifices self for the strength of the unit. In fact, the cohesiveness of a unit is predicated in part on the lack of individuality of its members. No special accommodation needs to be afforded any one of them. To the degree possible, we try to make Marines interchangeable. This makes the military a unique institution within the broader American society. It asks—no, it demands—that individuals put aside individual interests and behavior for the good of the unit. Self sacrifice is the cornerstone of the unit cohesion that builds effective combat organizations.

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about the effect it would have on unit cohesion, then that is a risk I would not recommend or support in today's environment.

As we sit here today, U.S. forces are deployed in Iraq and Afghanistan, fighting an armed enemy sworn to destroy our way of life. Our enemies respect and fear the United States' combat capability. Unfortunately, our enemies especially extremists do not care how enlightened or progressive our culture may be. The only thing that matters is effectiveness on the field of battle.

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Each member of this committee must in his or her own mind feel absolutely certain that the change to the current law will improve this Nation's combat effectiveness and minimize the risks our young men and women face on the battlefield. The change also must reduce the current environment of a hostile workplace not increase it.

Thank you for the opportunity to testify today.

Chairman LEVIN. Thank you very much, General.  
Mr. Almy.

**STATEMENT OF MICHAEL D. ALMY, FORMER MAJOR, U.S. AIR FORCE**

Mr. ALMY. Good morning, Mr. Chairman, Senator McCain, Senators.

My name is Mike Almy. I served as an officer in the United States Air Force for 13 years and attained the rank of major, until I was discharged under "Don't Ask, Don't Tell." I'm honored to be here this morning to tell you a little of my story.

I come from a family with a rich history of military service. My father is a West Point graduate, taught chemistry at the Air Force Academy, flew helicopters in Vietnam, and ultimately retired as a senior officer from the Air Force. One of my uncles retired as a master gunnery sergeant from the Marine Corps, with service in World War II, Korea, and Vietnam. Another one of my uncles, also with service in Korea, retired from the Army.

My family's military service inspired me to follow suit. When I was growing up, I didn't really know what civilians were, I just knew I would always follow in my father's footsteps and become a military officer. As such, I joined Air Force Reserve Officer Training Corps (ROTC) in 1988, and shortly thereafter earned a scholarship through ROTC. In 1991, I went through Army Airborne training at Fort Benning and earned my jump wings. In 1992, I graduated from ROTC in the top 10 percent of all graduates nationwide. In 1993, I came on active duty, just as "Don't Ask, Don't Tell" was becoming a law, and was stationed in Mississippi. Following this I was stationed in Texas, Illinois, Oklahoma, where I was named the top officer of my unit for the year, out of a group of about 1,000 people. Following this, I was one of six officers from

the entire Air Force selected to attend Professional Military Education at Quantico Marine Corps Base, VA. After this, I was stationed in Germany for 4 years, where I led the communications directorate of an air control squadron.

During my career, I deployed to the Middle East four times in support of our efforts in Iraq. In my last position in the Air Force, I led a team of nearly 200 men and women, whose mission was to operate and maintain the systems used to control the airspace over Iraq. On this deployment, we came under daily mortar attack, one of which struck one of my airmen and also caused significant damage to our equipment. Towards the end of this deployment, I was named one of the top officers in my career field for the entire Air Force.

During my time in Iraq, the Air Force restricted access to all private emails. Therefore, we were authorized to use work emails for personal and morale purposes. Shortly after I left Iraq, someone in the unit that had replaced mine was conducting a routine search and discovered my personal emails written to family and friends from the stress of a combat zone. The file was clearly labeled personal, and, as such, there was no military or work-related reason to search these emails. The commander in Iraq, during the height of the insurgency, ordered a search of my personal emails solely to determine if I had violated "Don't Ask, Don't Tell," and to gather whatever evidence could be used against me.

These emails were forwarded to my commander back in Germany. He next called me into his office and demanded that I give him an explanation for these emails. I refused to discuss the nature of these emails, because I considered them personal and private. I told my commander I would not make a statement until I had first consulted with a lawyer.

I was relieved of my duties leading nearly 200 airmen; my security clearance was suspended; part of my pay was terminated. Even as my commander was relieving me of my duties, he assured me that this was in no way a reflection of performance or my abilities as an officer.

After that day, I was in limbo for 16 months. I was still in the Air Force, but I was given a meaningless make-work job, while the process slowly ground forward. In my discharge proceedings, several of my former troops and one of the squadron commanders that I had served with there on the base all wrote letters on my behalf, urging that I be retained in the Air Force. They expressed the greatest respect for me as an officer, they all wanted me back on the job as their leader, and they were all horrified at how the Air Force was treating me.

Ultimately, after 16 months, I was discharged from the Air Force. The severance pay that I received from the Air Force was half what I would have received had I been discharged for any other reason.

As a final insult, on my last day of Active Duty, I was given a police escort from the base as if I were a common criminal or a threat to national security.

"Don't Ask, Don't Tell" failed me, despite the fact that I upheld my end of this law by never disclosing my private life. Never once in my 13-year career did I make a statement to the military that

violated “Don’t Ask, Don’t Tell” despite pressure from my commander to do so.

The law also failed the Air Force. There was considerable disruption to my squadron’s unit cohesion after I was fired and replaced by a more junior officer with less experience. This had a negative effect on morale and unit cohesion, and the mission suffered as a result.

Approximately a year after I was relieved of my position, my wing commander recommended that I be promoted to lieutenant colonel, even as the Air Force was actively pursuing a discharge against me.

Being relieved from my duties as a 13-year career officer, enduring a 16-month administrative legal proceeding, and finally being discharged, was completely devastating to me. I felt betrayed by my country and treated as a second-class citizen, even as I had repeatedly risked my life on foreign soil. I understood the constraints of living under “Don’t Ask, Don’t Tell,” and never imagined that I would become a statistic, since I abided by its basic premise of never disclosing any aspect of my private life.

My DD-214 discharge paperwork from the military categorizes the reasons for my separation as “homosexual admission.” I refused to sign this, because I never acknowledged anything to the military. Anytime I have applied for a Federal job, potential employers now see this on my record. I am now considered unfit for military service at a time when our Nation has actively recruited convicted felons, drug abusers, and high school dropouts. As a result of “Don’t Ask, Don’t Tell” and how the Air Force discharged me, I am now forced to reveal aspects of my private life to complete strangers, or once again lie about why I left the military.

I only recently decided to come forward with my story as an example of a career of service to our country cut short by this discriminatory law. Multiply my story by nearly 14,000, and you begin to understand the magnitude of this law. Since I’ve gone public with my story, I’ve received emails thanking me for my service, my story, and, more importantly, for giving a voice to those who have none on this issue. Some of these servicemembers are currently serving in harm’s way.

My greatest desire now is to return to the Air Force as an officer and a leader, protecting the freedoms of a Nation that I love, freedoms that I myself was not allowed to enjoy while I was serving in the military. This is my calling in life. I hope that you will allow this to happen.

Thank you.

[The prepared statement of Mr. Almy follows:]

PREPARED STATEMENT BY MICHAEL ALMY

Good morning, Mr. Chairman, Senator McCain, Senators.

My name is Mike Almy, I served in the U.S. Air Force for 13 years where I attained the rank of major before I was discharged under “Don’t Ask, Don’t Tell”. I am honored to be here today to share my story with you.

I come from a family with a rich history of military service. My father is a West Point graduate, taught chemistry at the Air Force Academy, flew helicopters in Vietnam, and ultimately retired as a senior officer from the Air Force. One of my uncles retired as a Master Gunnery Sergeant from the Marine Corps, with service in World War II, Korea, and Vietnam. Another uncle retired from the Army, with service in Korea.

My family's military service inspired me to follow suit. When I was growing up I didn't really know what civilians did—I just knew I would follow in my father's footsteps and become a military officer. I joined Air Force Reserve Officers' Training Corps (ROTC) in 1988, and earned a scholarship through ROTC. In 1991, I went through Army Airborne training at Fort Benning where I earned my jump wings. In 1992, I graduated from ROTC in the top 10 percent of all graduates nationwide. In 1993, I went on active duty, just as "Don't Ask, Don't Tell" was becoming a law, and was stationed in Mississippi. I then had assignments to Texas, Illinois, and Oklahoma, where I was named the Officer of the Year for my unit of nearly 1,000 people. Next, I was one of six officers selected from the entire Air force to attend Professional Military Education at Quantico, VA. Following this, I was stationed in Germany for 4 years, where I led the communications directorate for an air control squadron.

During my career, I deployed to the Middle East four times in support of our efforts in Iraq. In my last position in the Air Force I led a team of nearly 200 men and women whose mission was to operate and maintain the systems used to control the air space over Iraq. On this deployment we came under daily mortar attacks, one of which struck one of my airmen and also caused significant damage to our equipment. Towards the end of this deployment to Iraq, I was named one of the top officers in my career field for the entire Air Force.

During my time in Iraq, the Air Force restricted access to all private e-mail accounts. As such, we were authorized to use our work e-mail accounts for personal or morale purposes. Shortly after I left Iraq and had returned to Germany, someone in the unit that replaced mine did a routine search of our computer files for continuity materials and found my personal e-mails, written from a combat zone to family and friends, including a person I had dated. Some of these e-mails were forwarded to my commander. In Iraq, during the height of the insurgency, someone in the Air Force ordered a search of my private e-mails solely to determine if I had violated "Don't Ask, Don't Tell," and to gather whatever evidence could be used against me.

After my unit had been back in Germany for about 6 weeks, my commander called me into his office and demanded I give him an explanation of the e-mails. I refused to discuss them because I considered them personal and private. I told him I would not make a statement until I had first consulted with a lawyer. I was relieved of my duties, leading nearly 200 airmen, my security clearance was suspended, and part of my pay was terminated. Even as my commander was relieving me of my duties, he assured me this was in no way a reflection of my performance or my abilities as an officer.

After that day, I was in limbo for 16 months. I was still in the Air Force, but I was given a meaningless make-work job, while the process ground slowly forward. In my discharge proceeding, several of my former troops and one of the squadron commanders I worked for on the base wrote letters urging that I be retained. They expressed the greatest respect for me as an officer, wanted me back on the job as their leader, and were stunned at how the Air Force was treating me.

Ultimately, after 16 months, I was discharged from the Air Force. The severance pay I received from the Air Force was half what it would have been if I had been separated for any other reason. As a final insult, on my last day of active duty, I was given a police escort off the base, as if I were a common criminal or a threat to national security.

"Don't Ask, Don't Tell" failed me, despite the fact that I upheld my end of this law by never disclosing my private life. Never once in my 13-year career did I make a statement to the military that violated "Don't Ask, Don't Tell," despite pressure from my commander to do so.

The law also failed the Air Force. There was a considerable disruption to my squadron's unit cohesion after I was fired and replaced by a far more junior officer, with less training and experience. This had a negative effect on morale and unit cohesion and the mission suffered as a result. Approximately a year after I was relieved of my duties, my wing commander recommended I be promoted to lieutenant colonel, even though the Air Force was actively pursuing a discharge for me.

Being relieved from my duties as a 13-year career officer, enduring a 16-month administrative proceeding, and finally being discharged was devastating to me. I felt betrayed by my country and treated as a second-class citizen, after I had repeatedly risked my life in its defense on foreign soil. I understood the constraints of living under "Don't Ask Don't Tell," and never imagined I would become a statistic, since I abided by its basic premise, of never disclosing any aspect of my private life.

My DD-214 discharge paper from the military categorizes the reason for my separation as "homosexual admission." I refused to sign this form as I never once acknowledged anything to the military. Any time I have applied for a Federal job, po-

tential employers now see this on my military record. I am now considered unfit for military service, and yet our Nation has actively recruited convicted felons, drug abusers, and high school dropouts. As a result of "Don't Ask, Don't Tell" and how the Air Force discharged me, I am now forced to reveal aspects of my private life to complete strangers, or to lie about why I am no longer in the military.

I only recently decided to tell my story as an example of a career of service to this country cut short by this law. Multiply my story by more than 14,000 and you begin to understand the magnitude of this discrimination. Since I've gone public with my story I've received numerous e-mails thanking me for giving a voice to those who have none on this issue. Some of these servicemembers are currently serving in harm's way.

My greatest desire now is to return to active duty as an officer and leader in the U.S. Air Force, protecting the freedoms of a nation that I love; freedoms that I myself was not allowed to enjoy while serving in the military. This is my calling in life, please allow that to happen.

Thank you.

Chairman LEVIN. Thank you very much, Mr. Almy.

Ms. Kopfstein.

**STATEMENT OF JENNY L. KOPFSTEIN, FORMER LIEUTENANT JUNIOR GRADE, U.S. NAVY**

Ms. KOPFSTEIN. Good morning, Mr. Chairman, Senator McCain, Senators.

My name is Jenny Kopfstein. I joined the Navy in 1995 when I entered the Naval Academy. At the Academy, I majored in physics, and I was commissioned in 1999. I served openly as a lesbian officer for 2 years and 4 months before I was discharged under "Don't Ask, Don't Tell" in 2002.

The Naval Academy teaches you about honor and integrity. It places a special emphasis on these values. On the very first day, they give you uniforms, shoe polish, Brasso, and begin teaching you about the Academy's Honor Concept. The Honor Concept starts out, "Midshipmen are persons of integrity. They do not lie, cheat, or steal."

When I was a senior midshipman, I was an investigator for the Honor Staff. I investigated midshipmen who were accused of violating the Honor Concept. This experience brought home to me the importance of integrity and just what it means not to lie.

I graduated from the Naval Academy and became a surface warfare officer. I received orders to the cruiser USS *Shiloh*. I was excited and happy to go serve on a combatant ship.

It was difficult being on the ship and having to lie, or tell half truths to my shipmates. Under "Don't Ask, Don't Tell," answering the simplest questions can get you kicked out. If a shipmate asks what you did last weekend, you can't react like a normal human being and say, "Hey, I went to a great new restaurant with my partner. You should try it." An answer like that would have gotten me kicked out of the Navy. But, if you don't interact like that with your shipmates, they think you're weird and it undermines working together as a team.

So, after being on the ship for a while, and feeling deeply conflicted between the requirements of "Don't Ask, Don't Tell" and the Navy's core values, I wrote a letter to my commanding officer and told him I was a lesbian, because I felt like I was being forced to lie. I didn't want to get out of the Navy, and I said so in my letter. I wanted to stay and serve honorably, and to maintain my integrity by not lying about who I was.

After I wrote the letter, I continued to do my job on the ship to the best of my ability. We went on a 6-month deployment to the Middle East. I qualified as Officer of the Deck, and was chosen to be Officer of the Deck during general quarters, which is a great honor.

During all this time, I'm proud to say I did not lie. I had come out in my letter officially, and I came out slowly over time to my shipmates. I expected negative responses. I got none. Everyone I talked to was positive, and the universal attitude was that "Don't Ask, Don't Tell" was dumb. I served openly for 2 years and 4 months.

One thing that happened during that time was the captain's choosing me to represent the ship in a ship-handling competition. I was the only officer chosen from the ship to compete. My sexual orientation was known to my shipmates by this time. Nobody griped about the captain choosing someone being processed for discharge under "Don't Ask, Don't Tell" to represent the ship. Instead, a couple of my fellow junior officers congratulated me and wished me luck in the competition. I competed by showing the admiral my ship-driving skills and won the competition.

During the time I was serving openly, I earned my Sea Service Deployment ribbon, and my Surface Warfare Officer pin. During my pin ceremony, the captain took his own pin off his uniform and pinned it on mine. That was one of my proudest moments.

My open service had a positive impact on the ship's morale. I was able to treat my shipmates like human beings, and we could interact on a personal level. One time I was walking down the passageway on the ship and a senior chief petty officer stopped me and asked, "Ma'am, may I speak to you for a minute?" My first thought was, "Uh-oh, what is this going to be about?" We stepped into an empty room, and he pulled out his wallet. He showed me a picture of a teenage boy, "This is my son, and he's gay. I'm really proud of him." I was so shocked I didn't know what to say. Finally, I said, "Wow. Thank you, Senior Chief." We could not have had that interaction if I was not out. Normal people interact and talk about their families.

My commanding officer wrote in my fitness report in 2002 that my sexual orientation has not disrupted good order and discipline onboard the U.S.S. *Shiloh*. "Don't Ask, Don't Tell" has long been defended as necessary to preserve good order and discipline. It seems to me that the captain of a ship in the United States Navy is the most qualified judge of good order and discipline among his crew.

On my assignment after I left the ship, my new commanding officer awarded me the Navy and Marine Corps achievement medal, which is an individual award. He knew about my sexual orientation from the first moment I arrived at his command, but it made no difference to him.

During my service on the ship, I had two captains because there was a change of command while I was there. Even though they were four grades above me, both of them came and testified at my "Don't Ask, Don't Tell" discharge hearing to say they were opposed to kicking me out.

So, 2 years and 4 months after coming out in my letter and serving openly I was discharged under “Don’t Ask, Don’t Tell.” I should not be forced to hide who I am. When I was closeted, the pain ate away at the core of my being. The crew of my ship was my extended family, and being in the military is not a 9-to-5 job. A lot of the time when stationed on board a ship, going home is not even an option. I lived, worked, ate, slept, and went on liberty with that crew. Keeping parts of my life secret and separate was an incredible burden. It is an unnecessary burden, and no American soldier or sailor should be forced to bear it.

I made a commitment to the Navy when I joined to serve 5 years after graduation from the Naval Academy. I’ve only gotten to serve 3 and a half so far. I want the opportunity to live up to my commitment and serve out the rest of my time with honor. The way I see it, I owe the Navy a year and half more.

There are 66,000 lesbian and gay soldiers, sailors, airmen, and marines who are currently serving this country in our Armed Forces. They couldn’t be here today because they are forced to be silent. I am here before you as living proof that this law is wrong and being forced to serve in silence is wrong. It’s time for a change. I love the Navy. I would still be serving but for this law.

Thank you.

[The prepared statement of Ms. Kopfstein follows:]

PREPARED STATEMENT BY JENNY L. KOPFSTEIN

My name is Jenny Kopfstein. I joined the Navy in 1995 when I entered the Naval Academy. At the Academy, I majored in Physics, and I was commissioned in 1999. I served openly as a lesbian officer for almost 2½ years before I was discharged under “Don’t Ask, Don’t Tell (DADT)” in 2002.

I wanted to go to the Naval Academy because when I was a kid, I read the book *Space*, by James Michener, and many of the astronauts had come from the Academy. I wanted to have some of the adventures they had. In high school, I was “recruited” by one of the groundskeepers, who was a retired Chief Petty Officer. He knew I had an interest in the Navy, so he talked to me about it and steered me towards an official Academy recruiter so I could pursue my dream of attending a service academy.

The Naval Academy teaches you about honor and integrity. It places a special emphasis on these values. On the very first day, they give you uniforms, shoe polish and Brasso, and begin teaching you about the Academy’s Honor Concept. The Honor Concept starts out, “Midshipmen are persons of integrity: they do not lie, cheat, or steal.”

When I was a senior midshipman, I was an investigator for the Honor Staff. I investigated midshipmen who were accused of violating the Honor Concept. This experience brought home to me the importance of integrity and just what it means not to lie.

I graduated from the Naval Academy and became a Surface Warfare Officer. I received orders to the cruiser USS *Shiloh*. I was excited and happy to go serve on a combatant ship.

It was difficult being on the ship and having to lie, or tell half-truths, to my shipmates. Under DADT, answering the simplest questions can get you kicked out. If a shipmate asks what you did last weekend, you can’t react like a normal human being and say, “Hey, I went to a great new restaurant with my partner. You should try it out.” An answer like that would have gotten me kicked out of the Navy. But if you don’t interact like that with your shipmates, they think you’re weird, and it undermines working together as a team.

So after being on the ship for a while, I wrote a letter to my commanding officer and told him I was a lesbian because I felt like I was being forced to lie. I did not want to get out of the Navy. I wanted to stay and serve honorably, and to maintain my integrity by not lying about who I was.

After I wrote the letter, I continued to do my job on the ship to the best of my ability. We went on a 6-month deployment to the middle east. I qualified as Officer

of the Deck, and was chosen to be the Officer of the Deck during General Quarters, which is a great honor.

During all this time, I am proud to say I did not lie. I had come out in my letter officially, and I came out slowly over time to my shipmates. I expected negative responses. I got none. Everyone I talked to was positive, and the universal attitude was that DADT was dumb. I served openly for 2 years and 4 months.

One thing that happened during that time was the Captain's choosing me to represent the ship in a shiphandling competition. I was the only officer chosen from the ship to compete. My orientation was known to my shipmates by this time. Nobody griped about the captain choosing someone being processed for discharge under DADT and wished me luck in the competition. I competed by showing the admiral my ship-driving skills, and won the competition.

During the time I was serving openly, I earned my Sea Service Deployment ribbon and my Surface Warfare Officer pin. During my pin ceremony, the Captain took his own pin off of his chest and pinned it on mine. That was one of my proudest moments.

I tried my best to do my job, and my command was pleased with my work. My June 2001 Performance Report included these assessments:

A "top notch performer," "a gifted shiphandler. *Shiloh's* strongest Officer of the Deck. Possesses an instinctive feel for ship control seldom seen in such a junior officer. . . . When she has the deck, there is never any doubt who is in control." An "exceptional legal officer." "ENS Kopfstein is an outstanding officer."

My open service had a positive impact on the ship's morale. I was able to treat my shipmates like human beings, and we could interact on a personal level. One time I was walking down the passageway on the ship, and a Senior Chief Petty Officer stopped me and asked, "Ma'am, may I speak to you for a minute?" My first thought was, "Uh-oh, what is this going to be about?" We stepped into an empty room, and he pulled out his wallet. He showed me a picture of a teenage boy: "This is my son, and he's gay, and I'm really proud of him." I was so shocked, I didn't know what to say. Finally, I said, "Wow! Thanks, Senior Chief." We could not have had that interaction if I was not out. Normal people interact, and talk about their families.

My commanding officer wrote in my Fitness Report in 2002 that my "sexual orientation has not disrupted good order and discipline onboard USS *Shiloh*." DADT has long been defended as necessary to preserve good order and the captain of a ship is the most qualified judge of good order and discipline among his crew.

On September 11, my ship was in port at the Naval Weapons Station in Seal Beach, CA. On that morning, no one knew if further attacks were imminent. We received orders to go to sea and defend the coast of California. I was the Ordnance Officer, and shortly after it became clear we were being attacked, my first class petty officer came running up to me breathlessly. He said, "Ma'am, request permission to load the guns!" With the captain's permission, I gave the order: "Load the guns." I guarantee you, my first class petty officer was not at all concerned about my sexual orientation on that day. We had all trained to do a job, to protect this country, and we were going to do it.

My Grandfather fought in the Battle of the Bulge in World War II. On September 11, I thought of him. My Grandfather surely sacrificed more than I did, as he fought the ground war in Belgium in 1944, but I am his blood, and I was ready and willing to fight for my country in a time of crisis.

On my assignment after I left the ship, my new commanding officer awarded me the Navy and Marine Corps Achievement Medal, which is an individual award. He knew about my orientation from the first moment I arrived at his command, but it made no difference to him.

During my service on the ship, I had two captains because there was a change of command while I was there. Even though they were four grades above me, both of them wanted to come and testify at my DADT discharge hearing to say they were opposed to kicking me out. This is what they told the Board:

Her performance during deployment was "absolutely solid. She did a great job."

"I think this person has an awful lot to offer the Navy. \*\*\* She's an incredible officer and she has a lot to offer. I think it would be a shame for the Service to lose her."

I should not be forced to hide who I am. When I was closeted, the pain ate away at the core of my being. The crew of my ship was my extended family, and being in the military is not a 9 to 5 job. A lot of the time when stationed on board a ship, going home is not even an option. I lived, worked, ate, slept, and went on liberty

with that crew. Keeping parts of my life secret, and separate, was an incredible burden. It is an unnecessary burden, and no American sailor or soldier should be forced to bear it.

I made a commitment to the Navy when I joined to serve 5 years after graduation from the Naval Academy. I've only gotten to serve 3½ years so far. I want the opportunity to live up to my commitment, and serve out the rest of my time with honor. The way I see it, I owe the Navy a year and a half more.

America is a great country. As Steven Decatur famously said, "My country! May she ever be right, but right or wrong, my country." I joined the military to serve my country. There are those among us who cannot, for one reason or another, and I am proud to say I am the kind of person who would stand up and volunteer my service. I felt pride and responsibility every time I put on my uniform. I was humbled by every enlisted person who called me "Ma'am" and looked to me for leadership.

There are 66,000 lesbian and gay soldiers, sailors, airmen, and marines who are currently serving this country in our Armed Forces. They couldn't be here today, because they are forced to be silent.

I am here before you as living proof that this law is wrong, and being forced to serve in silence is wrong. It is time for a change. I love the Navy, and I would still be serving but for this law.

Thank you.

Chairman LEVIN. Thank you very much, Ms. Kopfstein.

Let's try a 7-minute first round.

We thank all of you for your testimony.

Mr. Almy, should somebody be forced to be silent about their sexual orientation in the military?

Mr. ALMY. In my opinion no, Senator. I think the "Don't Ask, Don't Tell" law is inherently in conflict with the Services' core value, as Admiral Mullen reflected in his testimony before this committee in a hearing a month ago.

The principal core value of the Air Force is, "Integrity First." "Don't Ask, Don't Tell" says that gays and lesbians can serve in the military as long as they're not who they are; as long as they lie about who they are. To me, personally, that was in direct violation of the core values of the Air Force.

Chairman LEVIN. So, while you were willing to keep your orientation private, you don't feel it is the right policy or a fair policy. Is that correct?

Mr. ALMY. Correct, Senator.

Chairman LEVIN. Now, would you like to return to the military, if you could?

Mr. ALMY. Absolutely. It's my greatest desire. It's my calling in life, and I miss the military considerably.

Chairman LEVIN. General, you've been a NATO Supreme Allied Commander, and I assume that, as NATO Commander, that you discussed the issue with other military leaders of our allies. Is that correct?

General SHEEHAN. Yes, sir. I have.

Chairman LEVIN. Those allies who allow open service of gay and lesbian men and women, did they tell you that they had unit cohesion or morale problems?

General SHEEHAN. Yes, sir, they did. If you don't—beg the indulgence.

Chairman LEVIN. Sure.

General SHEEHAN. Most of this committee knows that current militaries are a product of years of development. They reflect societies that they're theoretically paid to protect. The European militaries today are a product of the collapse of the Soviet Union. Na-

tions, like Belgium, Luxembourg, the Dutch, et cetera, firmly believed there was no longer a need for an active combat capability in their militaries. As a result, they declared a peace dividend and made a conscious effort to socialize their military. That included the unionization of their militaries. It included open homosexuality, demonstrated in a series of other activities, with a focus on peace-keeping operations, because they did not believe the Germans were going to attack again or the Soviets were coming back.

That led to a force that was ill-equipped to go to war. The case in point that I'm referring to is when the Dutch were required to defend Srebrenica against the Serbs. The battalion was understrength, poorly led, and the Serbs came into town, handcuffed the soldiers to the telephone poles, marched the Muslims off, and executed them. That was the largest massacre in Europe since World War II.

Chairman LEVIN. Did the Dutch leaders tell you it was because there were gay soldiers there?

General SHEEHAN. It was a combination——

Chairman LEVIN. But, did they tell you that? That's my question.

General SHEEHAN. Yes.

Chairman LEVIN. They did?

General SHEEHAN. They included that as part of the problem.

Chairman LEVIN. That there were gay soldiers——

General SHEEHAN. That their——

Chairman LEVIN.—among——

General SHEEHAN. The combination——

Chairman LEVIN.—the Dutch force.

General SHEEHAN.—was the liberalization of the military, a net effect of, basically, social engineering.

[After the hearing, General Sheehan submitted the following information as an insert for the record.]

My response was repeatedly interrupted and I was unable to complete my statement on why U.S. forces have to be different from European force like the Dutch.

The premise of my response was that U.S. troops have to have a different focus and point of view from other militaries because of the need to deploy quickly to isolated worldwide locations, fight on arrival, and win. This unique capability allows other nations the opportunity to participate within their capability and national caveats.

You have to look at a nation's military forces on a continuum of decisions. Armed Forces reflect the choices and priorities of their governments. Issues like unions in the military, a focus on peace keeping, emphasis on social programs, et cetera, all have an effect positive or negative on unit cohesion and effectiveness. I used Srebrenica as an example of the unintended consequence of policies that at the time were thought to be acceptable, but in the end did not contribute to unit combat effectiveness. Moreover the rules of engagement in Srebrenica were inappropriate for the environment in which the battalion was placed. The battalion was not equipped for the threat profile they faced. Most importantly, the political leadership from the United Nations on down failed to adjust their mission and rules of engagement for the reality on the ground. The failure on the ground in Srebrenica was in no way the fault of the individual soldiers. The corporals and sergeants executed their orders based on the established priorities of the political authorities and the rules of engagement.

Chairman LEVIN. You said that no special accommodations should be made for any member of the military.

General SHEEHAN. Yes, sir.

Chairman LEVIN. Are members who are straight, who are heterosexual, allowed, in our military, to say that they are straight and

heterosexual? Are they allowed to say that without being discharged?

General SHEEHAN. Are they allowed to——

Chairman LEVIN. Yes.

General SHEEHAN.—declare the sexuality?

Chairman LEVIN. Yes. Are they allowed to say that, “Hey, I’m straight. I’m heterosexual”? Can you say that without being discharged?

General SHEEHAN. There’s no prohibition, to my knowledge.

Chairman LEVIN. Is that special accommodation to them?

General SHEEHAN. I wouldn’t consider it special accommodation.

Chairman LEVIN. Why would it be a special accommodation, then, to someone who’s gay, to say, “Hey, I’m gay”? Why do you call that “special”? You don’t call it “special” for someone heterosexual or straight. Why do you believe that’s a special accommodation to somebody who is gay?

General SHEEHAN. I think the issue, Senator, that we’re talking about really doesn’t have a lot to do with the individuals. It has to do with the very nature of combat. Combat is not about individuals, it’s about units. We’re talking about a group of people who declare, openly, sexual attraction to a particular segment of the population, and insist and continue to live in the intimate proximity with them. That, by law——

Chairman LEVIN. But, you allow that for heterosexuals.

General SHEEHAN. Yes.

Chairman LEVIN. You don’t have any problem with that.

General SHEEHAN. Don’t have a problem with that.

Chairman LEVIN. You don’t have——

General SHEEHAN. But, that——

Chairman LEVIN.—any problem with men and women serving together, even though they say that they’re attracted to each other.

General SHEEHAN. That’s correct.

Chairman LEVIN. That’s not a special accommodation.

General SHEEHAN. No.

Chairman LEVIN. Okay. But, it is special to allow——

General SHEEHAN. It is, because it identifies a group as a special group of people who, by law, make them ineligible for further service.

Chairman LEVIN. But, the whole issue is whether they ought to be ineligible. Whether we ought to keep out of—from our——

General SHEEHAN. That——

Chairman LEVIN.—service——

General SHEEHAN. That’s the debate. The current——

Chairman LEVIN. Right.

General SHEEHAN.—the current law clearly says——

Chairman LEVIN. I know what the law says. The question is whether we ought to change the law.

General SHEEHAN. My recommendation is no.

Chairman LEVIN. No, I understand. Can you tell us what Dutch officers you talked to who said that Srebrenica——

General SHEEHAN. I——

Chairman LEVIN.—was in part caused because there were gay soldiers in the Dutch Army?

Chairman LEVIN. The Chief of Staff of the Army, who was fired by the Parliament because they couldn't find anybody else to blame.

Chairman LEVIN. Who was that?

General SHEEHAN. Hank Von Bremman.

Chairman LEVIN. Pardon?

General SHEEHAN. Hank Von Bremman.

Chairman LEVIN. All right. Why is the burden to end a discriminatory policy based on people who would end the discriminatory policy? Why do you say that people who want to end the policy have to show that it would improve combat effectiveness? If we're satisfied it would not harm combat effectiveness, and for many who would be allowed to serve, that they would be then permitted to serve without discrimination and without harm, why is that not good enough for you?

General SHEEHAN. Because the force that we have today is probably the finest fighting force in the world.

Chairman LEVIN. Maybe we could have an equally fine or even a better force, but if it's—

General SHEEHAN. No—

Chairman LEVIN.—equal—

General SHEEHAN.—I think the—

Chairman LEVIN.—if it's equally—

General SHEEHAN.—burden of—

Chairman LEVIN.—fine—if you could be satisfied that there would be no harm to combat cohesion or effectiveness, would that be satisfactory to you?

General SHEEHAN. No, I think it has to be demonstrated, Senator.

Chairman LEVIN. That there be an actual improvement.

General SHEEHAN. That we are—an actual improvement.

Chairman LEVIN. “No”—

General SHEEHAN. The reason—

Chairman LEVIN.—“harm” wouldn't be good enough for you.

General SHEEHAN. No, the reason I—

Chairman LEVIN. Pardon?

General SHEEHAN.—the reason I say that, Senator, is because we've gone through this once before during our lifetime—you were in the Senate at the time; it was called “The Great Society”—when it was deemed that we could bring into the military Category IVs and Vs, and help the military out, and make it part of a social experiment. Those Category IVs and Vs almost destroyed the military.

Chairman LEVIN. I don't know what that has to do with this issue.

General SHEEHAN. It has to do with the issue of being able to demonstrate that the change in policy is going to improve things. We were told that this was going to help out combat deployable strength. It didn't. It did just the opposite. It drove people out. So, I think the burden has to be on demonstrating that something is going to become better, not hoping that it'll become something better.

Chairman LEVIN. Yes. I think the burden to maintain a discriminatory policy is on the people who maintain the policy, not on the people who want to end it.

Senator McCain.

Senator MCCAIN. Thank you, Mr. Chairman.

I thank the witnesses.

I'd like to ask all three witnesses, do you have any objection to a thorough, complete review of the present implications of the issue, as to whether it's working or not, and whether it needs to be changed, and, if so, how?

Do you have a problem with that Ms. Kopfstein?

Ms. KOPFSTEIN. No, Senator. I don't have a problem with a review. I think it's clear that the law does need to be changed, because it's unevenly—

Senator MCCAIN. But, you don't have a problem with a review.

Ms. KOPFSTEIN. No, sir.

Senator MCCAIN. Mr. Almy?

Mr. ALMY. Senator McCain, actually I do. From the standpoint that this—

Senator MCCAIN. You have a problem with a thorough review—

Mr. ALMY. I have problem with—

Senator MCCAIN.—taking the input of the men and women in the military, the views of the Service Chiefs, as to whether it will enhance battle effectiveness or harm battle effectiveness, whether it should be maintained or not. Do you have a problem with that review?

Mr. ALMY. I do, Senator. From the stand—

Senator MCCAIN. Thank you. Go ahead.

Mr. ALMY. From the standpoint that we've not done this on any other issues of change with the military, as far as, most recently, putting women in submarines, women at the Service Academies. We did not survey the forces then, under those issues. The military is not a democracy. I don't see this issue as any different, Senator.

Senator MCCAIN. Thank you.

General, let me get to the heart of the question here that's being posed by those who want this law reversed. Why isn't it sufficient to argue that sexual orientation is irrelevant to combat skills, and that, with proper training and leadership, openly gay or lesbian soldiers or marines can be relied on to perform as well as any other soldier or marine?

General SHEEHAN. Senator, in my experience, homosexual marines create problems on the battlefield. Let me give you a case in point.

Early years of Vietnam, 9th Marines, west of Da Nang, rifle company on a ridgeline combat outpost, the intelligence was that the North Vietnamese were going to attack that night. The unit was put on 50 percent alert, which meant one slept, one stood on watch. About 1 o'clock in the morning, a fight broke out in a foxhole because the young marine was being molested by his squad leader. To the right of that foxhole, there was a machinegun section that opened up and almost killed a combat patrol that was out in the front.

Now, the natural question is, "Okay. Well, fine, don't you have rules that deal with assault?" and the answer to that is yes.

The real issue, though, was that, after we sorted this whole thing out, the squad leader essentially said, "Look, I was just adjusting his equipment, waking him up because I thought there was something out to the front." He denied it happened. The young private first class (PFC), who was new to the organization, said, "Wait a minute. This really happened to me. He was molesting me." The unit took sides, naturally. The squad leader was a popular person, been around for a while. The PFC was a new kid. For about 3 days, that unit divided down the middle—those that supported the popular squad leader, those that thought the new kid might be believable.

The only reason we sorted the issue out was because the sergeant committed the offense about 3 days later. But the real tragedy of this story is the young PFC continually insisted, for a long period of time, that nobody in his organization believed it happened. He lost faith in his chain of command.

So, I would argue the case that, if you look at—and you can say that I'm some old guy that's been around for a while, and been—probably been around for too long. But, I read—

Senator MCCAIN. You're not the only one that—

General SHEEHAN. Well—but, I read DOD's recently released sexual assault report. The thing that really bothers me about this issue is that the report says—and this is last year's report—there's been an overall 11 percent rise in sexual assaults in the military; 16 percent rise in Afghanistan and Iraq; 32—over 3,200 cases of sexual—we're not talking about sexual harassment, we're talking about sexual assault. Seven percent of those—that's about 226—male on male assaults, where rape and sodomy took place. DOD will clearly indicate that that's an underreporting.

I would stipulate that, from my days in Vietnam in the early 1960s, when I had this sergeant that almost got a combat patrol killed, that a—226 male soldiers and marines who are molested—that there's something wrong with our sexual behavior policy.

Senator MCCAIN. Thank you, General.

Mr. Almy and Ms. Kopfstein, each of you was commissioned at a time the "Don't Ask, Don't Tell" policy was in effect. While I understand you disagree with the policy and its effect, do you think you were confused about its meaning and potential applicability to you at the time you began your service?

Mr. ALMY. Senator, when I came in on Active Duty in 1993, I will admit, I think there was a lot of confusion, on a personal level, for myself, as well for the Nation and the military as a whole. I don't think—

Senator MCCAIN. There was confusion about the—

Mr. ALMY. I think—

Senator MCCAIN.—"Don't Ask, Don't Tell" policy?

Mr. ALMY. I think the policy, when it was first implemented in 1993, was not well understood. I think there are still issues where it's not.

Senator MCCAIN. Did you understand it later on?

Mr. ALMY. After I was relieved of my duties. Yes, Senator.

Senator MCCAIN. Ms. Kopfstein, were you confused or misled about the meaning and applicability of “Don’t Ask, Don’t Tell” at the time you began your service?

Ms. KOPFSTEIN. No, Senator. I thought that I would be able to live under “Don’t Ask, Don’t Tell.” Unfortunately, I found out otherwise, because of the conflict between the core values of the Navy—honor, courage, and commitment—and the Navy teaching me how wrong it is to lie. To be an officer with integrity means that you tell the truth, and you tell the whole truth, even if it’s unpopular.

Senator MCCAIN. Thank you. Although my understanding of the “Don’t Ask, Don’t Tell” policy is, you are not asked.

Mr. Chairman, my time is up. But, what I am confused about here is why there seems to be an objection to a complete, thorough, objective review conducted not just on the basis of how to repeal the law, which seems to be what the Secretary of Defense stated, and what seems to be some sentiment here, but—we’re in two wars. I wonder why anyone would object to a thorough, complete review as to assess the impact on our military, on our battle effectiveness in two wars, and then allow the Service Chiefs to render their best judgment. To continue to suggest a moratorium, which is basic to repeal, before that review is conducted is something, frankly, that I do not understand in a time that we are in two wars.

I will continue to argue and fight and do whatever I can to make sure that we have a thorough and objective review of the impact on the military of a change of this law. I think the men and women who are serving in the military deserve nothing less.

I thank you for the time. I yield.

Chairman LEVIN. Thank you, Senator McCain.

Senator Lieberman.

Senator LIEBERMAN. Thanks, Mr. Chairman.

I want to thank the three witnesses before us today, because I think that the testimony you’ve given and the different points of views you have on the proposal that I’m privileged to cosponsor with others, to repeal “Don’t Ask, Don’t Tell,” really helps to elucidate the differences here. So, it’s been to my way of thinking, a constructive discussion.

I’ve said before in different places, and I’ll say here, that it seems to me that, at a time in our country when some of the great institutions of country are held in disrespect—government, business, even, to some extent, religious institutions—the military continues to earn and get great respect. Part of it is because of the call to service, the bravery, the success of our military. But, also, a big part of it is that the American military is a unique institution which really lives, probably more than any other institution I know of in our society, by values. Nobody’s perfect, so people within the military break those values, violate them periodically, and they’re held to account, under military discipline—good order and discipline, standards, and procedures.

One of the values is integrity. We’ve talked a lot about that. It seems to me that one of the other values, which the American military has historically embraced is *e pluribus unum*—one out of many. The common cause, defense of our security and freedom, is

the goal that overcomes every diversity. Because the American people are inherently diverse. So, over our history, immigrant groups and, more recently—a little bit further back, racial differences—were overcome in our military. There was a time that there were great fears about what it would mean if African Americans served next to caucasian Americans in our military; or women served next to men.

Today, any of us who've been privileged to visit bases or battlefields know that the distinctions are gone, for the major reason—I'd quote from General Sheehan, "Military culture is intentionally structured to mold individuals from all walks of life into members of a unit willing to sacrifice themselves for shared tasks."

That, I think, is what we're trying to do here with the repeal of "Don't Ask, Don't Tell." It's to have gay and lesbian Americans who want to serve their country, and incidentally are not being asked—I say this respectfully, General Sheehan—like those Category IVs and Category Vs to go into the military as some kind of social experiment. They have been held, and they will be held, to the same high standards. In fact, as Major Almy said, maybe higher standards in a lot of cases, than others who are applying for the military.

But, the point I want to get to—and this, I think, is key, and I think the various leaders of our military, civilian and uniformed, that have come before us have made this point—that repeal of the current "Don't Ask, Don't Tell" policy and law must maintain—it can only happen if it maintains the high standards of unit cohesion and personal conduct that makes our military so effective.

So, Major Almy and Lieutenant Kopfstein, they're not asking for special treatment. They're asking to be treated like every other soldier, basically the way they perform in uniform.

Here's the question I want to get to. The episode you gave of the sexual assault, General Sheehan, with one man assaulting another man—could have easily, and unfortunately does, happen more with a man assaulting a woman in uniform. In fact, by your numbers, a 3,200-case increase in sexual assaults last year in our military—you said 7 percent of them were homosexual. That means 93 percent were heterosexual.

So, I know there may be fears that if we repeal "Don't Ask, Don't Tell," there'll be behavior inconsistent with good order and discipline, including sexual assault. But, if that happens they'll be held to the same account and discipline.

So, I wanted to ask all three of you to react to that statement, that all the rules of conduct in the military will apply, except that they'll not be forced to live a life of lies. They'll be held accountable, as every other marine, soldier, sailor, and airman is held accountable.

General Sheehan, why don't you start first.

General SHEEHAN. Senator, that's a very thoughtful question. My only answer, not that I would have to give you is that when you talk about the integration of forces—and I used the current DOD statistics; I haven't seen the details, because all I've seen is the summary—I think you have to keep in mind that there is a combat exclusion for women. We do not put women in a combat situation—foxholes, bunkers, and whatever have you. So if we're talking about

a 7 percent male-on-male type of a problem—and as you say, the remainder is male-on-female—and we put that whole group into a combat environment, I think those numbers would significantly increase. That's my speculation, based on my experience.

So, I think we need to be very careful about moving to somewhere that we don't know what the outcome is. We do know that the incident rate of sexual assault, not just harassment—is on the increase. I think we need to clearly understand why those assaults are taking place.

Senator LIEBERMAN. Right.

General SHEEHAN. Something is fundamentally different today in the military, and I don't know why. I don't know whether it's because the people who are coming in don't know what their boundaries are. I don't know whether it's the educational system that we're putting people through. But, clearly when you have a 16 percent increase in—

Senator LIEBERMAN. Yes.

General SHEEHAN.—sexual assault, there's something that needs to be fixed.

Senator LIEBERMAN. Look, it's a very important question. It may have to do with the stress of battle. But, I agree with what you said, just to come back to the bottom line. We have the best military in the world. We probably have the best military we've ever had. I don't think, respectfully, there's any basis for saying that, if we repeal "Don't Ask, Don't Tell," the number of homosexual assaults will go up. You may be right, but if it goes up, they'll be disciplined.

My time is up, but I wonder if I could just, Mr. Chairman, ask for a quick response from Major Almy and Lieutenant Kopfstein, to my general premise here?

Mr. ALMY. There is no place in the military today for inappropriate conduct—harassment, assault—straight or gay. That won't change once "Don't Ask, Don't Tell" is repealed. I've seen very similar scenarios to what the general described between men and women—in fact, probably far more so—and they were dealt with swiftly and appropriately and with discipline and punishment. Repealing "Don't Ask, Don't Tell" will have absolutely no effect on that.

Senator LIEBERMAN. Lieutenant Kopfstein?

Ms. KOPFSTEIN. I agree with Major Almy. The Uniform Code of Military Justice applies to everyone, gay and straight. Misconduct and inappropriate behavior are dealt with in the military.

Senator LIEBERMAN. Thank you.

Thanks, Mr. Chairman.

Chairman LEVIN. Thank you, Senator Lieberman.

Senator Chambliss.

Senator CHAMBLISS. Thank you, Mr. Chairman.

General Sheehan, Mr. Almy, and Ms. Kopfstein, I'd first like to thank each of you for being here today and appearing before the committee. This is an issue that is very sensitive, and, frankly, it takes courage for all three of you to be here to talk about this in public. As this debate continues, it'll be imperative that we hear from many other folks who share the same thoughts as each of you do. Again, thank you for coming. Thank you for your service to our

country. The fact that all of you served honorably should not be lost in this discussion.

Mr. Chairman, you alluded, earlier, to some polling numbers of the general public in America. Let me share with the committee, and enter into the record, some polling numbers of United States military members.

The Army Times, in February 2010, just last month, published a poll of a survey conducted in November 2009. Here's what they found: 54 percent of military members thought the current policy was effective in maintaining order and discipline; 21 percent thought it was ineffective—a 33 percent differential. Fifty-three percent of military members thought the current policy was effective in maintaining unit cohesion; 22 percent thought it was ineffective—again, a 31 percent differential. Fifty percent of military members said they would be uncomfortable sharing a small tent or combat outpost with openly homosexual soldiers; 36 percent said they would be comfortable. Fifty-two percent of military members said they would be uncomfortable sharing a barracks room with openly homosexual soldiers; 35 percent said they'd be comfortable. Fifty-two percent of the military members said they would be uncomfortable sharing the bunk above or below an openly homosexual soldier; 34 percent said they would be comfortable.

In today's political world, anyone who wins by 10 percent is considered to have had a landslide victory. On each one of those questions asked to the military, the people that truly count in this equation and on this issue, the margin of distinction is obviously significantly different.

Let me ask a question to each one of you. I'd like to give you an opportunity to answer this. My fundamental argument against repealing this policy has been that it will likely negatively affect morale, unit cohesion, good order and discipline, and readiness.

Let's start with you, Ms. Kopfstein. What's your opinion on that particular aspect of service to our military?

MS. KOPFSTEIN. Senator, I'm not an expert on polling, but I do know the Army Times poll was conducted in a nonscientific way.

I'll give you an example from my personal experience. When I was on the ship, I had two captains; there was a change of command. So, we had a change-of-command party at my first captain's house. He came into the wardroom, he announced the party, and he said, "Everyone's invited—every officer is invited and everyone is allowed to bring their spouse or date." I didn't think too much of that at the time. I was serving openly, because I had already come out, and the captain of my ship specifically came up to me, after making that announcement in the wardroom, and said, "Ordo," because I was the ordinance officer, "you're allowed to bring whoever you want to bring to the party at my house." I was stunned. But, since it came right out of the mouth of my commanding officer, I took my partner to that party. When we arrived at the front door, the captain and his wife were standing at the door, greeting each guest as we came in. They greeted us warmly. We went inside, got a plate of food and a cocktail, and all of my fellow officers and their spouses were very pleased that we were there. Not all of them had met my partner at that point. They all

wanted to talk to us, and frankly, we were the life of the party. [Laughter.]

I met my new commanding officer at that party, and he was very happy to meet me and my partner. It was a very normal cocktail party, and that was my experience. My shipmates were very accepting of me.

Senator CHAMBLISS. Thank you.

Mr. Almy?

Mr. ALMY. Senator, in my experience, what had a far more negative effect in my unit was when I was relieved of my duties.

Senator CHAMBLISS. I'm sorry. Could you talk just a little louder, please?

Mr. ALMY. Yes, Senator. What had a far greater negative effect on my unit was when I was relieved of my duties. Subsequently—while it's true that I was not "out" to my entire unit, subsequently, afterwards, when I had some of troops write letters of reference for me, it was a complete nonissue for my troops. They all wanted me back on the job as their leader, and didn't care one bit.

The young men and women that are coming into the military today, fresh out of high school or college, have grown up with gay and lesbian characters on TV, have known gays and lesbians in their schools, in their communities, on their sports teams, and most assuredly in their military. Nearly everyone in their 20s and 30s today serving in the military knows of at least someone who's gay or lesbian in their unit, and oftentimes these people are serving openly, with no negative or detrimental effects to their unit.

Senator CHAMBLISS. Okay.

General Sheehan.

General SHEEHAN. Senator, as I have testified, from personal experience in leading units in combat, this is a very risky proposition of an—including openly gay homosexual people in combat organizations.

Senator CHAMBLISS. Do you have any reason to believe that that is unique to the Marine Corps, versus other branches of the military?

General SHEEHAN. I used to be what they call, 2IC, second in charge, Whiskey Company, O1 Commando, Royal Marines, and I was a physical fitness instructor with Special Operations at Fort Bragg, NC. I can assure you those two organizations, from personal experience, share my views.

Senator CHAMBLISS. Yes. General, in my view, many of our potential military recruits come from traditional families whose religious and moral beliefs likely conflict with practice of homosexuality. If the military allows open homosexual service in the core group of our military, who, by and large, have a traditional world view, are now pressured to accept such conduct, and in conduct consider it normal, and accommodate it within the military, what effect might that have on recruiting and retaining individuals from that core group?

General SHEEHAN. Senator, I can't comment on hypothetical situations. I know that speculative people have talked about mass exodus, et cetera, but I have no data to say that. My instincts say that there is an element of truth in your statement, but I have no hard data that would indicate I could give you a number but I do know

it would not sit well. But as the Major has indicated, there is an increasing acceptance of homosexuals in the military. People do know homosexuals. The real issue is not about the individuals; it's the effect on combat cohesion and performance in the battlefield.

Senator CHAMBLISS. Yes.

My time is up.

Major Almy, I would simply say to you that you came in the military knowing what the rules were, and you tried to abide by the rules, and it's unfortunate that, as you were trying to abide by the rules, that, because of personal intrusion—or intrusion into your personal email account, this arose; otherwise, you probably would still be serving, under current law, very valiantly.

Again, to all of you, thank you for your service.

Thank you, Mr. Chairman.

Chairman LEVIN. Thank you, Senator Chambliss.

Senator Hagan.

Senator HAGAN. Thank you, Mr. Chairman.

I, too, want to just thank you for your testimony today, and your service.

Mr. Almy and Ms. Kopfstein, although the policy is referred to as “Don't Ask, Don't Tell,” as the law is currently written, members of the Armed Forces are involuntarily separated, regardless of how their sexual orientation is disclosed. Under existing law, the quality of your service does not serve as the criteria for retention due to a presumed disruption to unit cohesion and discipline. During your discharge proceedings, what impact did the recommendations from your leadership within your chain of command have on the decision to involuntarily separate you from your Service? I think, Mr. Almy, you were speaking about that.

Mr. ALMY. Thank you, Senator. To my knowledge, it made absolutely no effect whatsoever on the Air Force's decision to retain me. I had commanders that I had served with. I had superiors, peers, and subordinates, all alike, who knew my record, who knew my achievements as an officer, and supported me, and, even though they knew the full story, they still wanted me retained in the Air Force, and still wanted me back as their leader. To my knowledge, that had zero affect on the Air Force's decision whether or not to retain me.

Senator HAGAN. Ma'am?

Ms. KOPFSTEIN. Senator, in my case, I was honored and lucky that both of my commanding officers came to my discharge board. They were not required to do so. They took time out of their busy schedules to come and testify on my behalf.

The board—under “Don't Ask, Don't Tell,” its hands were basically tied. I had made an admission, and despite the vociferous recommendations of both of my commanding officers, two O6s, the board's hands were tied and they had to vote to discharge me.

Senator HAGAN. Mr. Almy, in your earlier discussion, I think you were talking about almost like a generational feeling of acceptance, more from the younger generation than the older generation, for homosexuals in the military. Can you elaborate on that?

Ma'am, too.

Mr. ALMY. Senator, I think you probably hit the nail on the head there. In my personal experience, this is a generational issue. I

have great respect for General Sheehan, for his leadership and his sacrifice to our Nation. From what I've seen, a lot of senior officers, senior military leaders from that generation, are the ones that are holding on to maintaining "Don't Ask, Don't Tell," with notable exceptions—Admiral Mullen, General Powell, General Shalikashvili.

In my experiences, and that of my peers, the young men and women coming into the military today, the 20-somethings and most of the 30-somethings, which is the large demographic in the military—for that group of people, this is largely a nonissue. Obviously there are some exceptions, but, as I stated earlier, that generation of men and women are far more comfortable with gays and lesbians, because chances are that they know one.

Senator HAGAN. General Sheehan, do you have any feelings on the generational attitudes?

General SHEEHAN. I absolutely admit that I am old—[Laughter.]

Senator HAGAN. We all are.

General SHEEHAN.—and that my views are formed by 35 years of leadership in a multinational environment, U.S. troops, all Services. I think that, to say that those points of view count less than a younger generation, doesn't really look at the issue in its totality. I think that the points that Senator McCain made, about the necessity for a true review of what—this issue—would be very helpful, because there are an awful lot of opinions. Some of my opinions are exactly what they are, they're my opinions, based on experience, but they don't, in all cases, reflect what reality really is.

So, I think that, as we go through this process, as I said in my remarks, if you can demonstrate this, that it would improve combat capability, clearly demonstrate, then change the law. But, it ought to be based on fact those facts come from junior people, senior people, especially people at the company gunnery sergeant, first sergeant level, who lead these kids on a day-to-day basis.

Senator HAGAN. Ma'am?

Ms. KOPFSTEIN. Senator, I agree with Major Almy. The younger generation definitely has a different view on this issue.

I'll give you a personal story. I certainly don't have the General's experience, but, on September 11, 2001, my ship was in port, in Seal Beach, CA, when we were attacked. I was standing in the wardroom, watching the television, watching events unfold. One of the young petty officers that worked for me ran into the wardroom and said, "Ma'am. Ma'am. Request permission to load the guns." I was the ordinance officer, so I was responsible for our antiaircraft and self-defense weapons. So, I turned to the captain, and I said, "Sir, request permission to load the guns." He said, "Permission granted," and we did. I can tell you, for a fact, in that moment, neither my captain nor the petty officer that worked for me cared one whit about my sexuality.

Senator HAGAN. Thank you.

The phrase "Don't Ask, Don't Tell" implies a mutual agreement, where the Services would not inquire about the sexual preferences of our members, and the military personnel would not publicly articulate your sexual orientation. However, under "Don't Ask, Don't Tell," we still have instances of very capable servicemembers being

involuntarily separated due to investigations initiated on tips provided by third parties.

Mr. Almy, in your situation, do you believe that private correspondence, via email, while deployed constitutes a breach of the existing policy? Or do you believe that your case serves as an illustration of how the policy is flawed?

Mr. ALMY. Senator, I think it's probably a little of both. I didn't tell, the Air Force asked, and I refused to answer the question. So, I think, while it's true I never made a personal—or a public statement to the military, I was still thrown out. I think that illustrates a flawed implementation of the current law. My understanding of what Secretary Gates has called for review, as far as the so-called “third-party outings,” would have had a direct bearing on my case. In all likelihood, I would still be on Active Duty.

Beyond that, I think it also illustrates that this law is just making our Nation and our military weaker by discharging qualified men and women who are patriotic and whose only crime happens to be that they might be gay or lesbian. All the while, we're actively recruiting people who are under-qualified to fill some of those vacancies.

Senator HAGAN. Thank you, all of you.

Chairman LEVIN. Thank you, Senator Hagan.

Senator THUNE.

Senator THUNE. Thank you, Mr. Chairman.

I want to thank all of you for your distinguished service to our country and for your willingness to appear today in front of us and give us your thoughts on this very important matter.

As has already noted, we are fighting two wars. We have to, I think, be very concerned about readiness, combat effectiveness, cohesion, recruitment, retention, all those issues. This would, of course, represent a very significant change from a policy that's been well-established for some time, and by all indications, with some exceptions, has worked quite well. So, it's something that I think needs to be very carefully considered before any sort of a change is made.

I would ask this question of you, General Sheehan. Secretary Gates, last month, established this—as we all know, a high-level working group within DOD to review the issues associated with properly implementing a repeal of “Don't Ask, Don't Tell.” The working group is to produce its findings and recommendations in the form of an implementation plan by December 1 of this year. Secretary Gates subsequently provided what he called “the terms of reference” for this working group. I don't know how familiar you are with those, but do you believe that “the terms of reference” that are provided by the Secretary will permit a fair review of the issue, or are there elements that, in your opinion, are missing from “the terms of reference,” that should be included?

General SHEEHAN. Senator, I have not read “the terms of reference” for that particular report. My only comment would be is, on an issue that is this serious, it clearly has to be a fair, honest, open evaluation.

The second comment I would make is that, as this report comes close to finalization, that there be a genuine dialogue between the Service Chiefs, this committee, and the Secretary, so this doesn't

become a sensationalized event. This is too serious an event to be left to a political event.

Number one, the report has to be absolutely scrupulously above-board, not biased. Again, I have to assume that Senator McCain is correct, because he usually is in most of these issues—is that if the report is biased toward “how to,” then I think it’s flawed to begin with.

Senator THUNE. Yes.

Let me direct this question to the entire panel. Admiral Mullen has made it clear that he supports the repeal of “Don’t Ask, Don’t Tell,” but we’ve also heard from some of the Service Chiefs that they want the current policy to remain in place. General Conway, who’s the Commandant of the Marine Corps, said in testimony before this committee that: “My best military advice to this committee, to the Secretary, and the President, would be to keep the law such as it is.” General Schwartz, Chief of Staff of the Air Force, has said that: “This is not the time to perturb a force that is stretched by combat operations in Iraq and Afghanistan, and important missions elsewhere, without due deliberation.” General Casey has also weighed in on that issue in that direction.

I guess the question I would ask all of you is, how should we weigh the fact that there isn’t a consensus among the Service Chiefs with regard to the issue of repealing “Don’t Ask, Don’t Tell”?

General, if you want to start—

General SHEEHAN. I think that’s the value, Senator, of having this unbiased report. That starts the basis of a real dialogue. As I said before, I would hope that as the report becomes final, that it becomes a real discussion between this committee, the Service Chiefs, and the secretariat. So, I would hope, out of that process, you would then be able to make an informed decision that’s based on fact, not opinion.

Senator THUNE. Thank you.

Major?

Mr. ALMY. Senator, my understanding is that Secretary Donley, the Secretary of the Air Force, has basically contradicted General Schwartz and said that now is the time for repeal. I understand that there is some disagreement among the Service Chiefs, among the Secretaries. Secretary Gates and Admiral Mullens have both called for repeal, as well as for the study of how to repeal “Don’t Ask, Don’t Tell.”

From my own limited understanding of this, there’s been ample research, both within the military and academia, from the militaries of foreign nations that have dealt with this issue, and they all showed that this was basically a nonissue. If you talk to the leadership of foreign militaries that have already dealt with this and have implemented repeal, they will all tell you that it was a great success. I think that to say that America is any less, that we have a less capable military of dealing with this issue, or a less professional force, I just think it’s simply not true. Clearly we have the greatest military in the world, and I think that this is an issue that we can deal with. Quite frankly, I think a few years from now we’re going to look back on this and say: “What was all the fuss about?”

Senator THUNE. Ms. Kopfstein.

Ms. KOPFSTEIN. Senator, I agree that our military is the most professional, most capable military in the world. Repeal of this law will be a nonevent. The Service Chiefs have recommended against repeal, and there may be some division, but Congress is the final decisionmaker. The law is wrong, and it's unevenly applied. We're Americans too, and we just want to serve.

Senator THUNE. I think the Service Chiefs have—as I have noted here, there's consensus among the Service Chiefs that it should not be repealed. There may be others in the administration, I know I'm aware of, that have a different view of that, but that, I think, is an important consideration obviously we have to weigh too as we evaluate this.

General, at the same time that Secretary Gates has stood up this working group to study how to implement repeal of "Don't Ask, Don't Tell," he's also asked DOD lawyers to come back in 45 days with proposed changes on how to, within existing law, enforce this policy in a more humane and fair manner. That is a different approach to this issue, and that is, that we should be seeking ways to update or improve "Don't Ask, Don't Tell," rather than throw it out. Are there any approaches that we, as Congress, could take to improve the "Don't Ask, Don't Tell" statute, rather than taking what would be a very significant and dramatic departure from existing policy and repeal it altogether?

General SHEEHAN. Senator, I think that, because of the scope of the responsibility of this committee, you have a lot of opportunities, in various bills and things that come before this committee, to do three things. First, I think that, as we've discussed, and in this "terms of reference" for this study, to make sure it's absolutely scrupulously honest and organized.

Second, is that "Don't Ask, Don't Tell," as a policy, is very, very imperfect. I think Congress recognized that when it passed the 1993 law. They knew there were going to be ambiguities, and they knew that is was going to lead to problems, and that's why it didn't include it in the law.

Over the last 5, 10 years since it was passed, there has been being built, in the public's mind, a perception of inevitability that this law is going to get changed. That, I think, in turn, leads to young men and women who think they're going to come into the military and the law's going to be changed on their watch. It may ultimately be changed, but not necessarily on their watch. That puts them in a very difficult position, because they come in with the expectation that this law is going to change.

I think that one of the things this committee could do is take a neutral position that says, "We're examining this law" that says, "It should be"—or not—or that it—"to investigate whether it is—should be changed," not that "is going to be changed," because you're creating, in the minds of young Americans, not a false expectation, but a hope that may not be realized.

The last comment I would make is that, in order to understand sexual behavior in the military, you can't do that in just the isolation of the "Don't Ask, Don't Tell" clause. As I said earlier in my remarks, there is something that—going on within the American military today that is fundamentally flawed, when you have a 16 percent increase in sexual assaults in a combat zone. I don't know

what the cause of that is, but as you investigate—all things kind of come together in one pot. So, if you try to parse this out and just deal with this, I think you'll come up at an imperfect solution.

I think this committee has a tremendous responsibility and a tremendous opportunity to rise above the political debate and do something that is really helpful to the American military.

So I would recommend those three things: one, a clear statement of what the purpose of this study is; two, tampen down the expectations what allows young kids to come in, thinking that something's going to be different tomorrow morning, when it may not be; and three, understand—truly understand—where we're going with the sexuality in the American military, because it is a problem, a real problem.

Senator THUNE. We need as candid and honest of assessments as we can possibly get about the impacts. In my judgment, bottom line is readiness, effectiveness, all those issues as we evaluate this.

We appreciate all of your candor, and your being here today.

Thank you, Mr. Chairman.

Chairman LEVIN. Thank you, Senator Thune.

Senator BURRIS.

Senator BURRIS. Thank you, Mr. Chairman.

I want to add my thanks to all three witnesses, who certainly have served this country well, and protected us. I just want to try to raise some questions.

General, I will challenge you and the rest on age. I'm pretty much your age. If you've served 35 years in, I think that you have—

General SHEEHAN. Sir, I'll concede to you.

Senator BURRIS. I'm sorry?

General SHEEHAN. I will concede age to you. [Laughter.]

Senator BURRIS. Thank you. I can remember, General, when I was attorney general of my State, how difficult it was for me to make a change. But, on my staff there was a young lesbian lady who would sit down with me each day and explain to me the problems, of persons who were lesbian or gay, that never occurred to me because I grew up in a different era. We talked about them, we laughed about them. It was all these derogatory terms that we used to use.

General, it also deals with the racial question. Do you know a fellow named Jackie Robinson? You ever heard of him? You talk about the brightest and the best. We don't know if we have the brightest and the best serving in our Military Service until we let everyone serve with their best distinction, best ability. The brightest and the best may not be.

You hear of a couple tennis players named the Williams sisters? You ever heard of the young man who had a little personal problem called Tiger Woods? We didn't know how golf really could be until a black person got into the competition. They were all eliminated from the game of golf. They were all eliminated from the game of baseball, General. They were all eliminated from all types of sports which were for whites only. Now, we're saying the military is for straights only.

General, I think that we need to put a moratorium on this situation right now. Don't let anyone be discharged from the military be-

cause of their sexual orientation until we can change this law, which I'm certainly supporting as a cosponsor on Senator Lieberman's bill to change the law.

But, General, could you give me a little insight of your background? Did you ever command black soldiers under your command?

General SHEEHAN. Sir, the American military has been integrated since President Truman was a President of the United—

Senator BURRIS. 1947, by executive order, sir.

General SHEEHAN. I have never commanded a unit that there were not Hispanics, blacks, whites, and Orientals. At one time during the Vietnam war, as both Senator Lieberman and the Chairman will remember, 65 percent of my rifle companies were black. They sustained 40 percent of the casualties in Vietnam. They understand what it means to be in harm's way. So, race in the military is not an issue. This institution that I represent—

Senator BURRIS. Pardon me, General, I have to interrupt you.

General SHEEHAN.—has the finest record of integration than any institution in this country of ours.

Senator BURRIS. Absolutely. How long did it take that to take place? What happened in World War II, with my uncles and my uncles-in-law when they were discriminated against? Prisoners were being brought back from Germany, and the black soldiers that were guarding them couldn't even ride in their cars, they were put back in the back cars because of the color of their skin. That's how far America has come. For you to now command those men, and they're fighting and dying for us, and at one time, because of the color of their skin, they could not serve this country. They fought and clawed to get there, to have an opportunity to serve. These are the same things with the gay and lesbian people. They want to serve. That's all they're asking.

Continue, General, I'm sorry.

General SHEEHAN. Senator, I think that if you go back to the 1993 discussions and hearings on "Don't Ask, Don't Tell," there's a very rich history of discussion with Cal Waller, Colin Powell, and the committee about this very issue, when Congressman Pat Schroeder was trying to equate this to a racial issue. Both Cal Waller and Colin Powell objected strenuously to the analogy. Many of the black leaders and the black marines that I was with at the time objected to the concept that their civil rights movement was being hijacked by gays and lesbians. I'm not an expert on this issue. But, I will only defer to both Cal Waller and Colin Powell, and refer this good Senator to their testimony back in 1993.

Senator BURRIS. Do you know what Colin Powell's position is now on gays serving in the military, General?

General SHEEHAN. Yes, sir, I do. He has said that he thinks it's time to conduct this review. He has deferred to the Service Chiefs on their position and essentially says, "If they are for changing the law," he will support that.

Senator BURRIS. I'm sorry. I think we just have correction on the record. My understanding is, the General says that it's time to end this "Don't Ask, Don't Tell" policy. That's what my understanding of the retired Joint Chief of Staff's position is. But, we can certainly double check that.

Do you have any statistics, General, on how many heterosexual rapes there are in the military?

General SHEEHAN. The last report I saw, Senator, was the numbers that I quoted, that 87 percent of the 3,200-something were male-on-female.

Senator BURRIS. So then there could be male-on-male or female-on-male. In other words—

General SHEEHAN. The male-on-male is 7 percent of that—

Senator BURRIS. Yes.

General SHEEHAN.—number. So—but, again, as DOD says, that's an underreported statistic, so the number—the actual number may be—

Senator BURRIS. Sure.

General SHEEHAN.—a lot larger.

Senator BURRIS. You're probably correct, and based on that, General, there are heterosexual rapes in the military, as well as there probably would be if—that takes place under young people as in our natural society. They're still human beings. God forbid, there will be probably homosexual, unfortunately, rapes in the military. I mean, that's not any reason for them not to be able to serve openly and forthrightly.

My time is up, but I'm going to hope there's a second round, Mr. Chairman.

I want to commend these two brave men and women who put their life on the line and, for no reason of their own, they were discharged from the military because of their sexual orientation. I suggest that we have a stop order issued on anyone else being discharged at this point until this situation is satisfied.

Very quickly, Major Almy, would you agree to that, that we probably should stop right now, so that none of your colleagues who are being investigated right now should be discharged?

Mr. ALMY. I would agree, Senator. Any further man or woman that's discharged under "Don't Ask, Don't Tell"—just because of who they are, I think is an unacceptable loss to our military.

Senator BURRIS. What would you say, Lieutenant?

Ms. KOPFSTEIN. Senator, I agree. No one should be separated from the military anymore because of this antiquated law, but it does need to be repealed in full.

Senator BURRIS. Thank you.

Thank you, Mr. Chairman.

Chairman LEVIN. Thank you, Senator Burriss.

Senator Webb.

Senator WEBB. Thank you, Mr. Chairman.

General, I think the data you just used needs some clarification, in terms of African American casualties in Vietnam. With all due respect to everyone who served—and I grew up in the military. I grew up in the military at a time when it had been racially integrated. I'm very proud of everybody's service. But, I've done a lot of writing and reporting on this issue, including 4 years on the House Veterans Committee as a committee counsel years ago. The statistics that we had at that time were that African Americans were about 13 percent of the age group, about 12 percent of the people in the military, and about 12 percent of the casualties, and about 10 percent of those killed in action. So, they certainly did

their share, along with everyone else. But, if you're saying 40 percent, you may be talking about one rifle company at one particular piece of time, or something. I don't know where that came from.

General SHEEHAN. No, sir. The 40 percent number comes from a study that was done on those that were inducted into the military during the Project 100,000 era.

Senator WEBB. So, you're talking about—

General SHEEHAN. I'm talking about a specific group of people during that—

Senator WEBB. The Project 100,000—

General SHEEHAN. Project 100,000—

Senator WEBB.—draftee—

General SHEEHAN.—draftees that were brought—

Senator WEBB.—the casualties among that—

General SHEEHAN. Yes.

Senator WEBB.—group.

General SHEEHAN. Right.

Senator WEBB. Well, now what I'm talking about is the over-all—

General SHEEHAN. Yes, sir. I—

Senator WEBB.—casualties. So, now—

General SHEEHAN. Yes—

Senator WEBB.—this is—

General SHEEHAN.—yes, sir.

Senator WEBB.—it's clearly not a hearing about that issue, but—I think that what you said could have been misunderstood by a lot of people walking out of the room, and—

General SHEEHAN. Okay.

Senator WEBB.—need to be clear on it.

General SHEEHAN. Thank you for—

Senator WEBB. Let me—

General SHEEHAN.—the correction.

Senator WEBB. Let me get into the subject of our discussion today.

First, I'd like to express my appreciation for all of you for your testimony. I think the issues that were being discussed from your two perspectives are very much the issues of integrity, which is what Admiral Mullen was bringing to the table. I've known him since I was 18 years old. I have a great respect for his views on this. I've known General Sheehan for many years, and I think the validity of discussing the unique culture and environment in the military, and particularly the operational military, is something that really has to be also put on the table here.

There can be nothing more important, in my view—and I think John McCain and I share this concern—than ensuring that, in this type of a process, that the military be allowed to report to the political side.

General Sheehan, you'll recall when you were Deputy Secretary Taft's military aide and I was Secretary of the Navy. I had come under a number of questions, during my confirmation hearing, about my views on women in combat. A big part of my frustration during that period was the political process telling the military how to do its actual functions. So I convened a study: 14 males, 14 females, officer and enlisted, who went out and examined this issue

and then reported, not back to me, but through the warfare chiefs, then to the Chief of Naval Operations. All of them reporting—the military reported to the political process, and we opened up more billets to women than any Secretary of the Navy in history. But, we did it in a way where the military itself was invested in the end result.

That's why I believe that the nature of this survey that has been announced, defining it is so vital to addressing this issue. I think we need to review the state of play here so that we know we're on the table.

Secretary Gates and Admiral Mullen, when they announced their decision in front of our committee, they did say they wanted to take this time period to examine the issue and then report to this committee about whether this law should be reappealed. I asked them, after they had made their testimony, if that was clear. The answer was yes, that this was clear.

So, General, your comment about our body, here, ensuring that we would be viewed objectively, is very important.

The other part of this is, the study that was done in 1993 did not really examine attitudes in the military. We've had a lot of anecdotal comments today—and they're valuable, in terms of understanding the issue—but we need the data, we need to be able to see, not in a political way, and not simply as to how this policy would be implemented, but in a way that we can understand the attitudinal characteristics in play—by age, by officer or enlisted, by Service; in many cases, I think, by occupational specialties—so we will truly have a matrix here in terms of understanding attitudes in the military.

I don't know where that will go. It may surprise you, General. I have no idea where it's going to go, but it's a vital piece, in my view, of moving this issue forward in the right way. Based on that, I believe we can come to a considered and intelligent decision. They may even go into distinctions based on types of units, General, something that you were referring to. 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.

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. 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 dis-

charged under what I think is an outdated policy. I just want to make that clear for the record.

General, let me turn, as I suggested I would, to you. I'm aware of about a dozen studies, that go back at least two decades, that show that there is 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. 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—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. The 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 serve their country are afraid of gay servicemembers and lack the professionalism to focus on the task at hand. As I said, I agree with him that there's no constitutional right to serve, and that some people are excluded, for any number of reasons. Where we differ is that I see all of reasons for exclusion as performance-related, except for sexual orientation. I believe we're dealing with a generation of people who know the difference between body weight or educational qualifications, for instance, and someone's essence, who they are, at their core.

In your numerous years of service, did you see anything that led you to believe that General Sheehan's view of our Armed Forces is based on today's realities? Lieutenant, maybe I'll start with you, and then turn to the Major.

Ms. KOPFSTEIN. No, Senator. In my experience, I only had positive experiences with my shipmates and the people I served with. Nobody had any complaints about taking orders from me or the quality of my work product and no one asked to be moved out of sharing a stateroom with me. All of the feedback I got after I came out was positive. People were happy and thankful that I was being honest with them, and that I could share parts of my life with them, and that we could actually be friends, that there wasn't a wall between us. That helps teamwork, frankly, because we could communicate with each other on a level that was human and positive.

So, no, I had no negative experiences with anyone in the military.

Senator UDALL. Lieutenant, if I might pursue that before I turn to the Major. Reading your very powerful, moving testimony, and, even more, hearing you deliver it, it seemed to me you were making the case that actually—when you live a lie, morale isn't as high as it could be, not only for you, as the individual involved, but for those with whom you serve, whether they're subordinates or superiors. Is that a fair way to characterize it—

Ms. KOPFSTEIN. Absolutely, Senator.

Senator UDALL.—at least your—

Ms. KOPFSTEIN. Absolutely.

Senator UDALL.—impression?

Ms. KOPFSTEIN. People can sense when you're not being fully honest with them, and they get the sense that you're holding back and that there's something strange about you. Not only does that make them curious, but it makes them not necessarily trust you completely. Trust is something that you have to have for unit cohesion and morale. If there is no trust, there is no teamwork.

Under "Don't Ask, Don't Tell," it is very difficult to have trust.

Senator UDALL. It undercuts the element of trust which, yes, as you point out, is really the crucial element, is it not?

Major, I want to make sure I don't run out of time before you can also comment.

Mr. ALMY. Senator, from my own personal experience, "Don't Ask, Don't Tell" is often the subject—it's a bit of a running joke or the subject of mockery, from gays and straights alike in the military, from the standpoint that everyone knows gays and lesbians are serving in the military today, and oftentimes they are serving openly, they are valued and patriotic members of their units who make tremendous contributions. I think the general consensus, or the general attitude, among the population, at least the ones that I served, was that they all understand this law is a reflection, not upon an individual's characteristics, their traits, their performance, but solely based upon who they are. So, as I said, it's a bit of a running joke, because gays and lesbians are already serving.

Senator UDALL. To that point, you served on 13 years of Active Duty, I think, alongside forces that did provide for gay servicemembers.

Mr. ALMY. Correct, Senator.

Senator UDALL. Did that affect the cohesion or morale, in your opinion?

Mr. ALMY. Not at all. What I've just stated, I found that attitude to be true, not only among the Air Force, but in my time serving with the Marine Corps, the Army, and the Navy. I've worked with all four branches. I have served for 4 years in Europe with our allies, none of whom have this discrimination anymore. In fact, the U.S. military is a bit of a joke among our allies, solely because of "Don't Ask, Don't Tell," on this issue. It's a complete nonissue for our allies, as well as allies that I have served with over in Iraq.

Senator UDALL. My time's going to expire, but last question to the two of you. I think it's a yes-or-no answer, but don't let me require that. It's been argued that "Don't Ask, Don't Tell" is working,

so why change? Do you believe “Don’t Ask, Don’t Tell” is working, Major?

Mr. ALMY. I do not believe “Don’t Ask, Don’t Tell” is working, because it throws out qualified men and women who just want to serve their country.

Senator UDALL. Lieutenant?

Ms. KOPFSTEIN. It’s absolutely not working, Senator.

Senator UDALL. Thank you.

I know, General, you believe it’s working. If it isn’t broken, why fix it. I appreciate your being here as well, today.

So, thank you to all three of you, again.

Chairman LEVIN. Thank you very much, Senator Udall.

We’ll have a second round now. Why don’t we start with about 3 minutes each, if we can, and then we can have a third round, if that’s not enough.

General, we now serve with the Dutch in Afghanistan. You made reference to the Dutch Army a couple decades ago. The Dutch allow their troops to serve openly if they’re gay or lesbian. We’re fighting alongside with them now. Do you know of any problem with that relationship?

General SHEEHAN. I have no firsthand experience of—

Chairman LEVIN. Have you heard of any problem?

General SHEEHAN. I have not.

Chairman LEVIN. Did you ever, when you were NATO Supreme Allied Commander, command gay servicemembers?

General SHEEHAN. I never asked for the sexual—

Chairman LEVIN. But—

General SHEEHAN.—orientation—

Chairman LEVIN.—did you know whether or not you did?

General SHEEHAN. No. I never—I—

Chairman LEVIN. You weren’t aware of it.

General SHEEHAN. No.

Chairman LEVIN. Okay.

I just want to read—let me read Secretary Gates’s statement, because there was some question here, and Senator Burris, I think, asked a question, which elicited a response that was not—well, anyway let me read what Secretary Gates has said. “I fully support the President’s decision. The question before us is not whether the military prepares to make this change, but how we best prepare for it.” So, it’s not, in Secretary Gates’s view, a question of “whether,” but a question of “how.” So, I agree with what Senator Burris was saying, there, in terms of what Secretary Gates’s position relative to this is.

In terms of General Powell, he basically supports, he said, Secretary Gates’s decision. They obviously support a study, but the study is not a study of “whether”; it’s a study of “how” we are going to implement a repeal. That’s just clarifications for the record.

Senator Lieberman.

Senator LIEBERMAN. Thanks, Mr. Chairman.

Major Almy, I wanted to ask you—perhaps I missed it—but what do you think was the motivation of the individual who went through your personal computer and then found these messages? In other words, did he have a gripe with you about something else, was he antigay, or was he just looking for trouble?

Mr. ALMY. Senator, I really don't know for certain. But, I can speculate that either this person just had a bias against gays and lesbians serving in the military or perhaps he was of the mindset that this was a law, and he was——

Senator LIEBERMAN. Yes.

Mr. ALMY.—being a good troop and following the letter of the law.

Senator LIEBERMAN. Yes. But as——

Mr. ALMY. Maybe a combination of both.

Senator LIEBERMAN. Right. But, did you know him? Or happen to——

Mr. ALMY. Very briefly. This was an individual in the unit that replaced mine in Iraq, so I had a brief overlap with this——

Senator LIEBERMAN. But as far as you know, there was no conflict between you or anything of that kind.

Mr. ALMY. None that I'm aware of, Senator.

Senator LIEBERMAN. Okay.

Let me ask Major Almy and Lieutenant Kopfstein this question. When you have a policy of discrimination in the United States, the burden has to be on those who are defending it. There've been arguments made about effect on morale, effect on unit cohesion. I think we've dealt with those very well, relevant to military values.

One of the other arguments, which Senator Chambliss referred to, is the effect on recruiting, on the argument that a lot of people coming into the military, perhaps a disproportionate number—I don't know what the numbers are—come from areas of the country that are more conservative, in terms of social values, et cetera. I know you're not expert in this, but you have come out of experience in the military. What's your judgment, the two of you, about what impact a repeal of "Don't Ask, Don't Tell" will have on recruitment?

Mr. ALMY. Senator, I'm not aware of any particular studies or polls on that very question you ask. But, I am aware of the experiences of foreign militaries, and there were similar predictions of gloom and doom on recruiting and retention once they repealed their bans on open service. None of that came to fruition. In other words, if you talk to all the senior leadership of these militaries today, they will tell you that repealing their ban had absolutely no effect upon their recruiting and retention.

I think we can draw similar analogies in our own military. That, as well as—I would like to say that—the military's diverse culture—one of the strengths of our military is, we bring young men and women from diverse backgrounds and bring them together and basically tell them that they have to be professional and work with people that are different from themselves. Oftentimes, these young men and women have never experienced an interaction, professionally, with someone from a different race, from a different background, from a different country of origin. That's one of the strengths of our military. In fact, our military celebrates in our diversity, and it's true. I see this as just one more aspect of our diverse military culture.

Senator LIEBERMAN. Thank you.

Lieutenant, do you have a judgment on that?

Ms. KOPFSTEIN. Senator, I believe that repealing this law will actually improve recruiting. I know that there are many patriotic

Americans who do not want to work for an organization that discriminates. So, in that respect, I believe that recruiting will be improved. Also, when you're talking about recruiting, you're talking about the 18-to-24-year-old demographic. Today's generation are most likely to know someone who is gay. When you know somebody personally, you're much less likely to fear them, and I think that most discrimination is based on fear.

Senator LIEBERMAN. Thank you very much.

Ms. KOPFSTEIN. So, it's my opinion—

Senator LIEBERMAN. I just remembered something. This was a while back, on another issue, but related. I was talking to an executive of a Fortune 100 company, and he was saying that he felt, when his company goes out to recruit on college campuses—this is to validate your point—that it is a positive to say that they, essentially, have employment nondiscrimination based on sexual orientation.

Thank you.

Chairman LEVIN. Thank you very much.

Senator BURRIS.

Senator BURRIS. Thank you, Mr. Chairman.

I just want to say for the record that I'm not trying to base all of my questions on race. It's just a framework to try to get people to start thinking beyond that.

I'd like to raise a question with General Sheehan. In your 3 years, as you served as Supreme Allied Commander, Commander of the Atlantic, you oversaw NATO troops from many diverse nations. Would you say that your forces bonded and were successful in the missions that they carried out? Did they have any problems in carrying out their missions, General?

General SHEEHAN. The answer to that is no. The reason why that's no is because NATO clearly understood the U.S. military was present, that we had the capability and the rules of engagement in place to do things that they could not do. You see, still, manifestations of this—withholds or caveats in the use of troops in Afghanistan today—that is still problematic.

Senator BURRIS. General, I'm sure that you, over the course of your service, have seen many units bond, with the purpose of working as a cohesive group. Can you tell me what parts of Major Almy's service record affected his unit negatively, or affected his readiness?

General SHEEHAN. I do not have a detailed knowledge of Major Almy's record. I do appreciate his service to this Nation. Both of them are to be congratulated for that service.

As I said during my testimony, my experience in a combat environment essentially was that, when a homosexual marine molested another marine, the real problem with the unit, not that it was the discipline to the individual, but what it did to the cohesion of the organization. First off, because the young PFC didn't believe that he was being supported; second, that people took sides. You cannot afford to take a unit out of combat for 3 to 4 days while you sort out these type of issues. The enemy doesn't allow you the luxury of taking units off the line.

Senator BURRIS. Major, how was your effectiveness in terms of you operating—your readiness and your—any negativism under your command?

Mr. ALMY. I would say, Senator, that certainly my being relieved of my duties had a negative impact upon my unit.

Senator BURRIS. So, the releasing you.

Mr. ALMY. Correct. That had a negative impact on the mission, the unit cohesion. Certainly, as I told some of my troops what was going on, it was a complete nonissue for them, to the point that they all wanted me back on the job as their leader.

Senator BURRIS. Lieutenant, how about you, in terms of when you said you got the orders—the captain—to load up the batteries, and you said it had no impact, whether you were lesbian or not, as to just what the situation was. Is that correct?

Ms. KOPFSTEIN. That's right, Senator.

Senator BURRIS. Now, did you experience any negative attitude when you came out in open? Was there anything negative that you experienced?

Ms. KOPFSTEIN. No, I only had positive experiences.

Senator BURRIS. For being honest, forthright, and living up to the Navy—

Ms. KOPFSTEIN. Absolutely. I believe my fellow sailors appreciated my honesty.

Senator BURRIS. Thank you, Mr. Chairman.

Chairman LEVIN. Thank you very much, Senator Burriss.

Mr. ALMY. Excuse me, Mr. Chairman, if I could offer one quick comment.

Chairman LEVIN. Sure.

Mr. ALMY. I wanted to go back to your question to the General regarding the Dutch military. I have served alongside the Dutch military, I have been in an exercise in field conditions, in the Netherlands, where my unit served alongside the Dutch military, both officers and enlisted. The subject of sexual orientation, or "Don't Ask, Don't Tell," was a complete nonissue to both the Americans as well as the Dutch, and that was within the past 5 years.

Chairman LEVIN. I think we all remember Srebrenica, but I think that any effort to connect that failure on the part of the Dutch to the fact that they have homosexuals, or did allow homosexuals, I think, is totally off target, and I've seen no suggestion of that. I've seen the failures that you talk about, General, in terms of their training being peacekeeping and their not being trained to do the kind of work that needed to be done—is accurate. But, in terms of—any attribution to the fact that they had allowed gays in the military is no more on point than the fact that they may have allowed Dutch-Africans or women, if there were women. I think it's just—

General SHEEHAN. My comment—

Chairman LEVIN. We'll check it out—

General SHEEHAN. My—

Chairman LEVIN. We're going to—

General SHEEHAN.—comment was that it was the liberalization that caused—

Chairman LEVIN. I know, but the—I agree with the—liberalization can—

General SHEEHAN. I am——

Chairman LEVIN.—mean that the——

General SHEEHAN. I am just repeating——

Chairman LEVIN.—you don't train people to——

General SHEEHAN.—what was told me.

Chairman LEVIN.—engage in combat. You don't train people to have—to engage in the kind of activity that you have to do to enforce the law. I agree with that. They weren't good in that respect. They were trained to be peacekeepers, not peace enforcers. I totally agree with that.

But to slide over from that into a suggestion that it had something to do with the fact that homosexuals were allowed in the Dutch Army suggests that somehow or other homosexuals are not great fighters. I think that is totally——

General SHEEHAN. I didn't say——

Chairman LEVIN.—wrong.

General SHEEHAN.—they weren't great fighters.

Chairman LEVIN. Well——

General SHEEHAN. What I said was the liberalization of the Dutch military was a contributing factor to their failure in Srebrenica.

Chairman LEVIN. The Dutch military, as you point out, were peacekeepers and not peace enforcers. I agree with that. But, what the heck that has to do with the issue before us is what mystifies me, because I don't think it has anything to do with the issue in front of us. But, I'll——

Senator LIEBERMAN. Mr. Chairman, if I may—and I don't want to prolong this, but I just do want to say—look, our closest military allies in the world, the Brits, have a policy by which homosexuals serve openly, and they have a great record. The British military, we would work very closely with them. They are side-by-side with us today in Afghanistan. In fact, when I was last there, in January, with Senator McCain, we were briefed by British General Carter, who's overseeing his tactical direction of a large number of forces, including marines—U.S. Marines in the south—in Helmand Province, in the south of Afghanistan—so just to offer evidence, with which I would guess that you'd agree, that the British military is a great military, and great allies of ours, notwithstanding their policy on homosexuals serving openly.

General SHEEHAN. Sir, not to prolong the discussion, but——

Senator LIEBERMAN. I did.

General SHEEHAN.—just for the matter of record. The decision, to allow openly homosexual people to serve in British military, was not done by the British government, or by the British people. It was done because the European Union court imposed it on the British. So, depending on who you talk to within the British—and I lived in London during the time of this process, the—basically, the British military was told just to shut up and accept it. So there, it is not an open-and-shut case that there isn't some tension over the issue.

The issue, in terms of working for a British general and I—and both of you know this, because we've gone through this discussion on previous times when I've been here—there's a difference—we don't allow, because of incidents like dual-key, American forces to

become—under the operational control of non-U.S. commanders. We give them tactical control.

Senator LIEBERMAN. Tactical, right.

General SHEEHAN. Tactical control does not affect much more than just a tactical activity. So, again, these are minor points in the discussion, and I have no problem with your analogy that the Brits are good soldiers.

Senator LIEBERMAN. Thank you.

Chairman LEVIN. I would add the Canadians and a bunch of other allies to that. We visited the Canadians down in southern Afghanistan, in Helmand Province, and they're doing one hell of a job, and they allow people to serve openly regarding their sexual orientation. I just think we have to be careful that you don't stereotype people because they're gay or lesbian, that somehow or other they are lesser fighters. That was the problem in Srebrenica, is that you didn't have people there that were fighting to enforce the law against some people who were terrorizing and killing others. It had nothing to do with their sexual orientation; it had to do with their training and their rules of engagement.

Let me close the hearing now with—first of all, with thanks to each of you for your service, as well as for your appearance here today. I think every one of us have thanked you for both your service to our country, as well as your willingness to appear today.

Just one example of how ending this discriminatory policy could contribute to our military's effectiveness—and I think the most important way it'll contribute, it will allow patriots who are willing to fight and put on the uniform of this country, to join the cause. To me, that's vitally important in this kind of a pluralistic and diverse democracy that we have.

But, we have lost I don't know how many linguists, just to give one example, who speak Arabic and Farsi, who've been forced out of the military because of this policy. We desperately need those folks. Now, I think we need all people who are willing to put on the uniform, and I use that as just one example. We probably have lost 13,000 or more Americans who are willing to serve, and that, to me, is a real loss of military effectiveness. But, just that one example, maybe, can highlight how we're really damaging our own capabilities and our own effectiveness when we have a discriminatory policy.

I also believe it's unconscionable, when the Commander in Chief and the Chairman of the Joint Chiefs have both said we should repeal a policy, for us to continue to discharge people solely because of their sexual orientation, during a period when there's a study going on as to how to implement that policy. Not "whether" to implement it; if you look at the policy guidance, it's "how" to implement a new policy. It just violates my conscience.

I'm in favor of repeal, and there's no doubt about that. I've made that clear. I've cosponsored Senator Lieberman's bill. But, that's, for me—as important as that is, there's this interim problem we have, that people are going to be discharged, apparently, pursuant to this policy, after the Commander in Chief has said they shouldn't be discharged, and after the Chairman of the Joint Chiefs has said they shouldn't be discharged, and while we are having a study underway as to how to implement a repeal. That strikes me

as unconscionable and unfair, and I hope we can repeal this policy promptly.

In the interim we surely ought to suspend the discharges until the completion of that study. If we can't get this repealed—and I hope we can—at a minimum, I hope we can suspend the discharges under these circumstances.

Senator LIEBERMAN. Chairman Levin, just from—made me think about what Lieutenant Kopfstein said at the beginning. We made a big investment in her, and she owes us a year and a half. So, I want to give her—[Laughter.]

Chairman LEVIN. We intend to get it back. I want you to know that, too. [Laughter.]

Ms. KOPFSTEIN. I'm happy to give it, sir.

Chairman LEVIN. Well, no, we are very grateful to all of you for coming forward, and we've had a good, lively discussion. That's a part of this democracy of ours, too. Hopefully, we cannot only reach the right conclusion, but reach it promptly, and have an interim solution which is fair, as well.

We will stand adjourned, with thanks to everybody.

[Appendixes A and B follow:]

## APPENDIX A



STATEMENT FOR THE RECORD OF  
 AMERICAN VETERANS FOR EQUAL RIGHTS  
 FOR THE  
 SENATE ARMED SERVICES COMMITTEE  
 CONCERNING  
 REPEAL OF THE DON'T ASK, DON'T TELL POLICY

Chairman Levin, Ranking Member McCain, and members of the Committee, American Veterans for Equal Rights (AVER) would like to thank you for the opportunity to present our views on the Don't Ask, Don't Tell (DADT) policy and the ban against openly gay and lesbian personnel serving in the United States Armed Forces. As the oldest and largest gay veterans service organization in the United States, AVER is composed of military veterans from all service branches, men and women, officer and enlisted, having served in all conflicts from World War II to Afghanistan and Iraq. As proud veteran service members we support the mission of our nation's military and we care about the success of America's armed forces and the well being of all the soldiers, sailors, airmen, and marines who serve in our uniformed services. AVER is in a unique position to offer a perspective based on the experience of gay and lesbian soldiers who have served in the military and would see no harm come to the honor, integrity, or proficiency of the armed services in which we ourselves served or the morale of those to whom we passed the torch of freedom.

AVER supports the removal of the DADT ban in this year's Defense Authorization Bill for the safety of our troops serving in Iraq and Afghanistan, the successful completion of our mission in those countries, the security of our homeland against terrorism, the continued crucial expansion of diversity in our military, and the integrity of the forces directly charged with the defense of the United States Constitution. We believe that the ban on gay service members directly endangers the lives of our troops by removing critical combat support, and compromises the security of our nation by removing vital resources at a time when we are demonstrably stretched to a dangerous limit, all for a policy that can be proven to accomplish nothing more than damaging the morale of soldiers and the success of units, and the undermining of the military's primary defense of our constitution by supporting a form of discrimination which is clearly opposed to the freedoms proclaimed within it.

Virtually every nation with which the United States now ally ourselves in the "free world" has dropped its ban on openly gay and lesbian service members with no detrimental effect to the unit cohesion necessary to military success. These countries include Australia, Austria, the Bahamas, Belgium, Canada, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Ireland, Israel, Italy, Lithuania, Luxembourg, the Netherlands, New Zealand, Norway, Slovenia, South Africa, Spain, Sweden, Switzerland, and Great Britain, which is not only our closest and most faithful ally with whom we are currently engaged in a joint combat operation in Afghanistan, but the nation which shares the most similar cultural roots with the United States and has a military that is all volunteer, tactically superior, and battle-tested. Of all the nations that no longer discriminate against gay and lesbian soldiers, the British military command fought longest and hardest against lifting their ban on openly gay service members. The legendary image of the celebrated British military was at stake. The British Ministry of Defense commissioned a detailed assessment on the effects of allowing gay troops to serve openly, and despite the overwhelming evidence from other countries that openly gay service had not undermined performance, the commission concluded that the ban should be retained because surveys of British military personnel indicated that the majority of troops preferred not to serve with openly gay people. Many of those surveyed said they would refuse to work with gay soldiers or obey commands given by a gay officer. When the European Court of Human Rights forced the British military to remove its ban in 1999, the Ministry of Defense begrudgingly gave in and removed the ban with the expectation of mass desertions and the degradation of centuries of illustrious British military tradition. Nothing happened. The British military experienced exactly the same result as every other military that had lifted its ban on openly gay military service members: no effect on morale, no disruption of unit cohesion, no damage to military effectiveness. Nothing.

Supporters of DADT claim that foreign militaries have easily accepted openly gay service members because they are somehow different from the American military. These critics claim that foreign soldiers are somewhat effete, effeminate, or "girlish" compared to American soldiers, and are therefore more culturally inclined to accept gay soldiers who are assumed to be equally effeminate. AVER suggests that these critics be introduced to a pair of Aussie drill sergeants in a private alley where they can express their beliefs in person. Regardless, the insinuation is that American soldiers could not successfully integrate gay and lesbian service members the way our allies have done. AVER proudly affirms that we have the best trained and most professional military force on the planet, and if other nations can lift their bans with no adverse effect then the United States can not only do the

same but do it more quickly and more efficiently. To claim otherwise is to insult the intelligence and discipline of America's fighting men and women. The professionalism of United States service members should not be called into question. We are second to none. Anything they can do we can do better.

Other critics claim that lifting the ban at a time when our nation is involved in two wars overseas would be too disruptive to the armed forces. AVER does not believe that any military resources should be diverted from the war effort in order to implement inclusion. Nor do we believe that such resources will be necessary. Again, our allies have stopped discriminating against gay and lesbian troops and there has been no negative effect on military performance or morale. AVER believes that the fact we are engaged in two difficult wars is exactly the reason that the ban should be lifted as soon as possible, because the ban costs the lives of America's soldiers engaged in combat.

No American soldier should ever die on the battlefield because the medic who could have saved his life was kicked out of the military for being gay. This life-and-death situation is where the "rubber hits the road" with Don't Ask, Don't Tell. The policy removes highly trained personnel who are necessary to save the lives of our soldiers. No one, from Commandant to private, has the right to tell a soldier that he is better off dead than having a gay or lesbian trauma care specialist save his life. Removal of the ban on openly gay military personnel will save the lives of American soldiers. Plain and simple. If you care about soldiers as we do, you will give them the tools necessary for survival and success. Give them those tools now. Lift the ban.

It goes without saying that the loss of gay and lesbian intelligence experts and translators further cripples a security net already stretched beyond tolerance. How many near misses should the American people tolerate before they demand that Congress find more resources to protect us from terrorists rather than removing highly skilled resources already in place? How much wasted tax money in the cost of expensive technical training will they accept because our government puts more emphasis on the removal of skilled technicians rather than the retention of highly trained security experts? America must have every resource and every single person available to us in the war to defeat the terrorist threat. DADT costs qualified people and weakens America's defenses. DADT must go.

United States military commanders deployed overseas clearly do not believe that openly gay soldiers are detrimental to unit cohesion or morale because they routinely retain newly "outed" gay soldiers in the field until their units return home

from combat. Because the military understands the essential role that each highly specialized soldier plays in today's mechanized combat units, commanders know that the loss of one soldier leads to the break down of the entire machine. Nothing damages morale or more greatly jeopardizes the success of a military unit than losing a crucial part of a highly tuned team. The results of the removal of vital team members are degraded performance and extra work for personnel, and that does nothing to promote unit morale or cohesion. Nor does the removal of a dedicated and faithful member of the unit for no valid reason do much to reinforce the essential trust of their fellow soldiers that the military will take care of all service members as promised. Commanders are reinforcing trust and securing success by ignoring the Don't Ask, Don't Tell policy or finding ways around it. Clearly, if they felt openly gay and lesbian troops were dangerous to cohesion or morale they would remove them immediately. But they don't. Give our commanders what they need to succeed. Lift the ban. Do it now.

Ironically, the military has begun to expound on the merits of diversity while some members of Congress still choose to discriminate against our fellow citizens. Command Sergeant Major Hector G. Marin, who assumed the top enlisted position at Aberdeen Proving Ground in 2007, spoke of "strength in diversity" at his installation ceremony. According to Marin, "the many races, ethnicities, religions and creeds" that "make America strong" also help "make the Army strong". "We take young men and women from all backgrounds, some who come from several generations of Americans and some who are first generation Americans, and turn them into a force with a common focus, the defense of our great way of life. We understand better than most that success has nothing to do with the color of your skin, where you were born, or the type of religion to which you belong. In fact, we know there is only one color of importance to the Soldier and that is Army green....It was only in 1948, when President Harry S. Truman signed an executive order that led to the integration of the military, that we really started on the road to becoming the model of meritocracy that our military is today." The Army's first four-star female general, General Ann E. Dunwoody, Commander, U.S. Army Materiel Command, continued the theme of diversity in a speech on March 6, 2009. "Your Army considers diversity a strength – and we proudly lead the nation in offering equal opportunity to all". These same sentiments were echoed by General George Casey, U.S. Army Chief of Staff, who stated in the wake of the Ft. Hood mass shooting tragedy by a Muslim Army officer, "Our diversity, not only in our Army, but in our country, is a strength. And as horrific as this tragedy was, if our diversity becomes a casualty, I think that's worse."

The words of these exceptional soldiers are not just lip service. Diversity is a strength to our armed forces because wherever in the world our soldiers go to perform their duty they are likely to already have experience with the diverse people they meet because of the diversity they experience in the military itself. Additionally, when the US military arrives in other countries in support of freedom, the first thing people see is Americans in uniform who are black, white, Latino, Asian, male, female, gay, straight, Christian, Jewish, and Muslim, all working together as one single unified team. This is the very essence of the freedom we present as the ultimate American value, the ability to overcome differences and work together as equals towards a common goal. American soldiers are already serving with and taking orders from openly gay and lesbian officers and enlisted troops in the ranks of our allies fighting by our side in Afghanistan. Our troops already have experience in serving with openly gay soldiers. It is nothing to fear. We need to give more credit to the young soldiers who compose the vast majority of today's military. They are free from many of the prejudices that burden the generations of their leaders. Do not underestimate the flexibility and courage of America's best and brightest.

Finally, honored members of the Committee, the ban against openly gay and lesbian service members undermines the very mission of our military, which is now and has always been to defend the sacred liberties that are enshrined in our constitution. Perhaps not every young recruit who raises his or her hand to take the Oath of Enlistment in the US military has read every word of the constitution. But AVER does believe in our hearts that each of those young men and women has a clear understanding that they have just made a promise that is truly special in all the world, a promise for which they are prepared if necessary to give their lives, a promise that puts them among the number of a deeply honored group of freedom fighters. They have made a promise to hold the line in defense of liberty and equality. There is much more at stake with DADT than a simple military policy. "Once a marine, always a marine" must be understood to mean every marine, including gay and lesbian marines. "The Army always takes care of its own" must mean that gay and lesbian soldiers, too, are a valued member of the family that will never leave one of its own behind. Don't Ask, Don't Tell endangers much more than the technical elements of the modern military. It endangers traditions and truths that lie at the very heart of America and our military. It endangers the aspirations to which countless oppressed people have dreamt great dreams. Equality. Integrity. Justice. In opposing Harry Truman's plan to integrate racial minorities into the military in 1948, General Omar N. Bradley wrote, "We all realize that the donning of a uniform does not change a man's personality, his aptitude or his prejudices". With all due respect to that great hero, America is

better than that. We must be better than that. When I became one of the first victims of Don't Ask Don't tell in 1994 following a statement I made in support of lifting the ban, I probably came closer to honoring my oath to defend the constitution than in the 6 preceding years I had served in the US Army. Honored fathers, please do not chain a new generation of American warriors with old ideas foreign to their own understanding of "liberty and justice for all". They are America's future, a future that must continue the dream of one great nation forged from many diverse peoples. Let these young people shape their own vision of America. Give them your confidence and your moral courage. Give them a chance. Support them. Lift the ban.

This concludes AVER's testimony on this crucial issue. We who once swore an oath to defend our nation's freedom have never forgotten our promise to keep vigil and stand ready. We would be honored to answer any questions.

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## Center for American Progress Action Fund



## MEMORANDUM

**To: Senate Armed Services Committee**

**From: Center for American Progress Action Committee**

**Subject: Ending "Don't Ask, Don't Tell"**

The Center for American Progress Action Committee strongly supports President Barack Obama's decision to work with Congress and the military to repeal "Don't Ask, Don't Tell" this year. The president's announcement was an important and historic step toward ending this outdated and discriminatory policy that has led to the discharge of nearly 14,000 patriotic men and women from military service since the law was enacted more than 16 years ago. In addition to these involuntary discharges, many thousands of talented gay and lesbian Americans leave the services every year of their own volition or choose not to join at all because of the policy.

As Secretary of Defense Robert Gates and Chairman of the Joint Chiefs of Staff Admiral Michael Mullen prepare to testify before the Senate Armed Services Committee on Tuesday, February 2, it is self-evident that the U.S. military needs every available qualified service member in order to complete our missions in Iraq and Afghanistan.

As those returning from both theaters of war frequently attest, on the battlefield it doesn't matter if you are gay or straight—it only matters if you can get the job done. And no reputable or peer-reviewed study has ever shown that allowing service by openly gay personnel compromises military effectiveness. Indeed, the militaries of some of the United States' closest allies—including Britain, Canada, and Israel—have successfully integrated openly gay men and women into their ranks without incident.

Recent surveys of returning U.S. service men and women from the wars in Iraq and Afghanistan have demonstrated that there is growing acceptance of gay and lesbian service members in the armed forces. Moreover, the American people recognize that the ban does not make sense: Recent polling shows that the American public supports repealing DADT by a 55 percent to 35 percent margin.

There is enough evidence to confirm that reversing the ban on gay people in the military will not undermine unit effectiveness or unit cohesion—the primary reason cited in support of the policy.

Now that President Obama has set a goal of repealing the law this year, those in favor of the status quo will undoubtedly protest that there are numerous administrative questions that need to be answered before openly gay men and women can serve in the military. What will the military's housing policy be with respect to openly gay men and women? Will partners of gay and lesbian service members receive the same benefits as straight service members? What laws regulating social conduct within the military must be updated to conform to the new policy?

To answer these questions, Congress should work with the administration to immediately appoint a high-level commission to study how—not whether—to implement a repeal of the ban on gay people in the military. Such a commission should be modeled after the Gates Commission, which President Richard Nixon established in 1969 to plan for how

to move the military to an all-volunteer structure. The president should give the commission authority to sort out the complicated legal and administrative aspects of the law's repeal, but he must provide clear leadership and guidance to ensure that the commission understands his objective of overturning the ban—an element that was sorely lacking from the working group President Bill Clinton established during his effort to address this issue in the early 1990s. Congress and the administration should give the commission a six-month deadline to ensure the policy can be repealed this year.

Legislative action is required to repeal DADT permanently. Once the commission has given its recommendations, Congress should use them to review and revise rules and regulations across the military for all service members—gay and straight—without regard to sexual orientation. Reports that the Department of Defense will not take action to discharge service members whose sexual orientation is revealed by third parties or jilted partners while Congress is debating the issue are encouraging. But President Obama should go one step further and sign an executive order suspending further discharges on the basis of a service member's sexuality until Congress can take action on this issue.

After eight years of war in Afghanistan, and almost seven in Iraq, we can no longer afford to keep talented, patriotic men and women from serving their country in the military solely on the basis of their sexual orientation. Now is the time to repeal this outmoded, unfair, unnecessary, and costly law.



**NEW YORK  
CITY BAR**

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**COMMITTEE ON LESBIAN, GAY, BISEXUAL & TRANSGENDER RIGHTS  
COMMITTEE ON CIVIL RIGHTS  
COMMITTEE ON MILITARY AFFAIRS AND JUSTICE**

**REPORT TO THE UNITED STATES SENATE ARMED SERVICES COMMITTEE  
IN SUPPORT OF THE REPEAL OF THE “DON’T ASK, DON’T TELL” POLICY**

The Association of the Bar of the City of New York (the “City Bar”) calls for the immediate repeal of the United States military’s ban on open service by lesbian, gay, or bisexual (“LGB”) individuals, known colloquially as “Don’t Ask, Don’t Tell” (“DADT”). This discriminatory policy has denied numerous LGB individuals the opportunity to serve their country, while denying the military the benefit of their talents and skills. DADT is both legally unsupportable and unsound as a matter of policy.

President Obama’s recent promise to work for the repeal of DADT during his January 27, 2010 State of the Union address and the Senate Armed Services Committee hearing that followed on February 2, 2010, are important first steps to repealing this discriminatory policy. During that hearing, Defense Secretary Robert M. Gates and Admiral Mike Mullen, chairman of the Joint Chiefs of Staff, added their support to the growing mass of proponents calling for DADT’s repeal, and announced the creation of a working group to study the implementation of any repeal. The City Bar urges the Pentagon and Congress to act swiftly to determine an effective implementation plan and include repeal language in the next Defense Authorization bill, and urges President Obama to follow through on his promise to end this discriminatory policy.

**A. Introduction**

In 1993, as part of the National Defense Authorization Act for 1994, Congress passed into law the “Policy Concerning Homosexuality in the Armed Forces.” The statute provides that a member of the armed forces shall be separated from the military if a finding is made that the member “has engaged in, attempted to engage in, or solicited another to engage in a homosexual act or acts unless,” *inter alia*, the member can affirmatively demonstrate that “such conduct is a departure from the member’s usual and customary behavior” and “the member does not have a propensity or intent to engage in homosexual acts.”<sup>1</sup>

Although touted at the time as a compromise policy that would shield the privacy interests of LGB service members while protecting the military’s interest in unit cohesion, good order, discipline and the morale of the troops, fifteen years of experience under DADT has demonstrated that it did not accomplish its stated objectives. Far from achieving the goal of avoiding the waste of military resources on needless investigations and discharges – a goal that is

<sup>1</sup> 10 U.S.C. § 654(b)(1).

even more critical given the significant demands on today's militaries - DADT has resulted in the discharge of more than 13,000 service men and women since its enactment in 1993.<sup>2</sup>

Despite the popular name given to the policy, in fact there is nothing in the statute itself that prohibits the military from questioning service members about their sexual orientation.<sup>3</sup> Limitations are found in the Department of Defense's implementing regulations, but, in accordance with the statute, those regulations provide for inquiry into what would otherwise be lawful, private conduct allowed for heterosexual service members. DOD Directive 1304.2 provides that applicants shall not be questioned about their sexual orientation at the time of their enlistment or induction – yet this prohibition is suspended where the military has independent evidence that the applicant has engaged in “homosexual conduct.”<sup>4</sup> Similarly, although DOD Directive 1332.14 prohibits a commander or inquiry official from asking about sexual orientation during a fact-finding inquiry or administrative separation procedure, the investigating official is authorized to ask members whether they engaged in “homosexual conduct” where credible information exists to support such charges.<sup>5</sup> Indeed, that directive does not “preclude[] questioning a member about any information provided by the member in the course of the fact-finding inquiry or any related proceeding.”<sup>6</sup> Moreover, to oppose separation from the service in administrative proceedings, it is the service member who bears the burden of proving, by a preponderance of the evidence, that he or she is not a person who engages in, or has a propensity to engage in, or intends to engage in homosexual acts.<sup>7</sup> Accordingly, although the public may perceive DADT as a policy that permits LGB individuals to serve so long as they are “discreet” as to their sexuality, as a matter of practice, DADT imposes restrictions on the private lives of homosexual service members beyond those imposed on all other service members.<sup>8</sup>

**B. Lesbian, Gay and Bisexual Service Members Are Subjected to Harsh Penalties Not Faced by Their Heterosexual Counterparts**

Because DADT applies at all times, whether on base or off, the estimated 66,000 LGB people serving in the U.S. military<sup>9</sup> are subject to restrictive limitations in their civilian life, which are not imposed on their heterosexual colleagues. A service member who turns to the civilian police in situations of domestic violence or bias attacks risks discharge if he or she has to admit to legal homosexual conduct to make the report. Entering into same-sex marriage, civil or domestic partnership, or simply obtaining domestic partner benefits under private insurance puts a service member at risk of discharge. Same-sex partners cannot be listed as primary next of kin to be notified if the service member is killed, missing, or wounded in action. Nor will the

<sup>2</sup> David F. Burrelli, “Don’t Ask, Don’t Tell:” The Law and Military Policy on Same-Sex Behavior (Congressional Research Service 2009) at 10.

<sup>3</sup> See 10 U.S.C. § 654.

<sup>4</sup> DOD Directive 1304.26, E2.2.8.1.

<sup>5</sup> DOD Directive 1332.14, E5.3.c. (Aug. 28, 2008).

<sup>6</sup> *Id.*

<sup>7</sup> *Id.* E5.3.f.

<sup>8</sup> See Don’t Ask, Don’t Tell: Debating the Gay Ban in the Military 53-60 & 139-50 (Aaron Belkin & Geoffrey Bateman, eds., 2003).

<sup>9</sup> [http://www.law.ucla.edu/williamsinstitute/pdf/GaysintheMilitary2008\\_PressRelease.pdf](http://www.law.ucla.edu/williamsinstitute/pdf/GaysintheMilitary2008_PressRelease.pdf).

military provide benefits for same-sex partners. Failure to report the adoption of a child with their same-sex partner can lead to criminal conviction.<sup>10</sup>

Discharge under DADT can seriously impact the benefits the service member receives following discharge. The discharge characterization the service member is awarded if discharged under DADT may be improperly lowered, putting at risk certain benefits, including the Montgomery G.I. Bill education benefits, and he or she may no longer be eligible for separation pay.<sup>11</sup>

### C. Arguments Supporting DADT Are Not Supported by the Facts

Defenders of DADT argue that allowing LGB service members to serve openly would wreak havoc on unit cohesion, recruitment and retention, and battle readiness. In other words, the discriminatory effects of DADT are justified by the sexual anxiety, fears and bigotry of heterosexual service members, who would not be able to tolerate serving with identifiable sexual minorities. However, recent studies, as well as the experiences of foreign militaries which allow open service by LGB individuals, demonstrate that these fears are unfounded.<sup>12</sup>

Whatever arguments might have been made in 1993 regarding the necessity for DADT, the sea change in public perceptions and military culture regarding homosexuality that has taken place in the intervening fifteen years has largely negated the perceived basis for a ban on open military service by LGB individuals. In 2008, 104 retired generals and admirals called for the repeal of DADT, including some of those who supported the policy at the time it was initially adopted.<sup>13</sup> A 2006 survey by Zogby International of current and recent military personnel serving in Afghanistan and Iraq found that the majority of service members know or suspect that there are LGB service members in their units. Two-thirds of service members who were certain that a member of their unit was gay did not believe the presence of an LGB individual adversely impacted the morale of their unit.<sup>14</sup> Moreover, 78% of those polled stated they would join the military regardless of whether gay and lesbian service members could serve openly.<sup>15</sup> Even the military's own studies and reports have found no link between sexual orientation and military performance.<sup>16</sup>

The successful experiences of foreign militaries that have lifted bans on open service by LGB individuals also rebut the contention that integration would decrease military effectiveness.

<sup>10</sup> Servicemembers Legal Defense Network, "The Survival Guide: A Comprehensive Guide to 'Don't Ask, Don't Tell' and Related Military Policies," Fifth Ed., 2007, pp. 32-36, available at <http://www.sldn.org/pages/survival-guide>.

<sup>11</sup> *Id.*, pp. 47-52.

<sup>12</sup> Zogby International, "Opinions of Military Personnel on Sexual Minorities in the Military," December 2006, p. 6. Kyle Dropp and Jon Cohen, "Acceptance of Gay People in the Military Grows Dramatically," *The Washington Post*, July 19, 2008, A3, available at [www.washingtonpost.com/wp-dyn/content/article/2008/07/18/AR2008071802561.html](http://www.washingtonpost.com/wp-dyn/content/article/2008/07/18/AR2008071802561.html).

<sup>13</sup> <http://www.palmcenter.org/press/dadt/releases/104Generals%2526Admirals-GayBanMustEnd>.

<sup>14</sup> Sam Rodgers, "Opinions of Military Personnel on Sexual Minorities in the Military," Zogby International, December 2006.

<sup>15</sup> *Id.*

<sup>16</sup> See, e.g., RAND's National Defense Research Institute Report; U.S. Gen. Accounting Office, *Homosexuals in the Military: Policies and Practices of Foreign Countries* (1993); U.S. Army Research Institute for the Behavioral and Social Sciences Report (Pinch 1994); F.C. Pinch, *Perspectives on Organizational Change in the Canadian Forces* (U.S. Army Research Institute for the Behavioral and Social Sciences, 1994).

In total, twenty-four nations allow LGB individuals to openly serve in the military, including twenty-two allied nations with troops serving alongside American service member in Iraq and Afghanistan. Great Britain, Australia, Canada and Israel, to name a few, have successfully integrated their militaries. Numerous studies examining the impact of integration on these foreign militaries have found that open service by LGB individuals has not undermined military performance, unit cohesion, military readiness, nor has it increased difficulties in recruitment and retention.<sup>17</sup> The successful integration of foreign militaries confirms that the continuation of the United States' official ban is not necessary to fulfill military objectives.

#### D. DADT Is Incompatible with Constitutional Values

In the area of military affairs more than in other areas of civic life, courts look to Congress to set the standard in granting constitutional rights to the men and women who serve their country.<sup>18</sup> For that reason, Congress is under a particularly heavy obligation to act.

The constitutionality of DADT has been called into question by the seminal Supreme Court case of *Lawrence v. Texas*, in which the Supreme Court recognized a fundamental constitutional right, guaranteed by Due Process Clause of the Fourteenth Amendment, for adults to engage in private, consensual homosexual conduct.<sup>19</sup> DADT's codified discrimination against service members who engage in "homosexual conduct" as defined in 10 U.S.C. § 654 represents a direct abridgement of LGB service members' protected liberty interest in pursuing private, intimate relationships with consenting adults of their choice. While the military setting undoubtedly often dictates a need for less privacy than in civilian life, because DADT operates where there is no similar restriction on private, intimate relationships for non-LGB service members, DADT cannot be justified by military need.

The conflict between DADT and the holding of *Lawrence* has been recognized in recent court decisions.<sup>20</sup> In the face of a substantive due process challenge, the Ninth Circuit overruled its prior precedent upholding DADT.<sup>21</sup> The Ninth Circuit reasoned that DADT's intrusion "upon the personal and private lives of homosexuals" must be subjected to heightened scrutiny. Applying this standard, the Ninth Circuit concluded that DADT's constitutionality must be

<sup>17</sup> See, e.g., Aaron Belkin and Jason McNichol, Effects of the 1992 Lifting of Restrictions on Gay and Lesbian Service in the Canadian Forces: Appraising the Evidence (The Center for the Study of Sexual Minorities in the Military [CSSMM] 2000); Aaron Belkin & Melissa Levitt, The Effects of Including Gay and Lesbian Soldiers in the Israeli Defense Forces: Appraising the Evidence (CSSMM 2000); Aaron Belkin & Jason McNichol, The Effects of Including Gay and Lesbian Soldiers in the Australian Defence Forces: Appraising the Evidence (CSSMM 2000); Aaron Belkin & R. L. Evans, The Effects of Including Gay and Lesbian Soldiers in the British Armed Forces: Appraising the Evidence (CSSMM 2000) (all of these studies are available at <http://www.palmcenter.org/publications/dadt>). See also RAND's National Defense Research Institute Report; U.S. Gen. Accounting Office, Homosexuals in the Military: Policies and Practices of Foreign Countries (1993); U.S. Army Research Institute for the Behavioral and Social Sciences Report (Pinch 1994); F.C. Pinch, Perspectives on Organizational Change in the Canadian Forces (U.S. Army Research Institute for the Behavioral and Social Sciences, 1994); Aaron Belkin, Don't Ask, Don't Tell: Is the Gay Ban Based on Military Necessity? 33 Parameters 111 (2003).

<sup>18</sup> While "[t]he military has not been exempted from constitutional provisions that protect the rights of individuals," *Emory v. Secretary of Navy*, 819 F.2d 291, 294 (D.C. Cir. 1987), courts hesitate to disturb Congressional judgments. See *Cook v. Gates*, 528 F.3d 42, 57 (1st Cir. 2008) (upholding DADT against due process and equal protection challenge because of the "unique context" of the strong deference due when "reviewing an exercise of Congressional judgment in the area of military affairs.").

<sup>19</sup> 539 U.S. 558 (2003).

<sup>20</sup> See, e.g., *United States v. Marcum*, 60 M.J. 198 (C.A.A.F. 2004).

<sup>21</sup> *Witt v. Department of Air Force*, 527 F.3d 806, 819 (9th Cir. 2008).

analyzed on a case-by-case basis, and that its application to any particular service member must be specifically shown to further an important government interest in the least intrusive way possible.<sup>22</sup> As the factual underpinnings of DADT have not withstood scrutiny, it is highly doubtful that the military could ever meet this standard.

Moreover, while lower courts upheld the constitutionality of DADT against Equal Protection challenges pre-*Lawrence*,<sup>23</sup> DADT is not compatible with our constitutional guarantee of equal protection under the law.<sup>24</sup> DADT singles out one group – LGB service members – for statutory strictures not imposed on any other group. The Supreme Court has explained that laws singling out LGB individuals for stricter legal treatment "raise the inevitable inference that the disadvantage imposed is born of animosity toward the class of persons affected."<sup>25</sup> As discussed above, there is no factual basis for any interest other than such animosity, an interest that, of course, is not a legitimate governmental interest.<sup>26</sup>

#### E. Conclusion

DADT has resulted in the discharge of thousands of qualified individuals who identify as LGB. Since its inception, over 13,000 men and women have been discharged from the armed services, including over 300 language experts, more than 50 of whom were fluent in Arabic.<sup>27</sup> Discharging highly qualified individuals with specialized skills – particularly those skills needed by a military engaged in wars on multiple fronts – based on nothing more than their sexual orientation runs counter to military effectiveness and to the principles of liberty and equality that the military is sworn to uphold.

The City Bar urges that the Pentagon, Congress and President Obama heed the call of Members of Congress, military leaders, active and discharged service members, and a growing chorus of the public, to repeal DADT and to replace it with a policy of non-discrimination. This is not only critical to the lives and dignity of LGB individuals in the Armed Forces and their families, but also, imperative to returning our Armed Forces to their fullest and most able capacity.

Carmelyn P. Malalis  
Chair, Committee on  
Lesbian, Gay, Bisexual & Transgender Rights

Peter T. Barbur  
Chair, Committee on  
Civil Rights

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Chair, Committee on  
Military Affairs & Justice

February 2010

<sup>22</sup> *Id.*

<sup>23</sup> See, e.g., *Richenberg v. Perry*, 97 F.3d 256 (8th Cir. 1996) (split panel defers to Congressional judgment on necessity of DADT to maintain unit cohesion).

<sup>24</sup> See *Lawrence*, 539 U.S. at 579-585 (Justice O'Connor concurring in the judgment on Equal Protection grounds).

<sup>25</sup> *Romer v. Evans*, 517 U.S. 620, 634 (1996).

<sup>26</sup> *Id.* See also *United States v. Virginia*, 518 U.S. 515, 532 (1996) (sex classifications may not be used "for denigration of the members of either sex or for artificial constraints on an individual's opportunity"); *Loving v. Virginia*, 388 U.S. 1, 8 (1967) (rejecting "equal application" defense to prohibited classification).

<sup>27</sup> David F. Burrelli, "Don't Ask, Don't Tell: The Law and Military Policy on Same-Sex Behavior (Congressional Research Service 2009) at 10.

# SERVICEMEMBERS

## ★ U N I T E D ★

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Testimony of Servicemembers United for the Hearing on the “Don’t Ask, Don’t Tell” Policy

Committee on Armed Services, United States Senate  
March 18, 2010

Chairman Levin and Members of the Committee:

We would like to thank you for holding this important hearing today to evaluate the impact and efficacy of the “Don’t Ask, Don’t Tell” policy and to consider the repeal of the law on which this policy is based. As the nation’s largest organization of gay and lesbian troops and veterans and their allies, Servicemembers United is especially eager to help shed light on the myriad ways in which this policy has failed our troops, our military, and our nation.

The members of the Committee have now had a chance to hear from a variety of senior military and civilian leaders from the Department of Defense, and today it will hear from a panel of distinguished veterans about this issue. The one element that remains missing from this debate, however, is the voice of those men and women who are currently serving on active duty under the cloud of “Don’t Ask, Don’t Tell.” These servicemembers are the ones who stand to be impacted most by a decision on the fate of this policy, yet their voices are effectively muted by the strictures of the very law that is up for debate.

In lieu of further testimony conveying facts and statistics about the record and impact of “Don’t Ask, Don’t Tell,” we offer to you instead a collection of personal testimonials from a diverse range of gay and lesbian troops who are currently serving on active duty, some of which

are even fighting in Iraq and Afghanistan right now. We implore each member of the Committee to read through at least a few of these testimonials, as these are the men and women whose lives and livelihoods are at the heart of this debate.

Thank you.

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*I am a junior officer currently serving in the United States Navy. I previously served a tour as an enlisted sailor for 4 years prior to my commissioning. I am currently living in constant fear of losing the career I love and I am being forced to lie on a daily basis because of 'Don't Ask, Don't Tell.' While I am in a service that holds dear to its core values of honor, courage, and commitment, I am forced to choose between the three by this antiquated and discriminatory policy.*

*I cannot interact with my fellow military members honestly due to this policy. My ability to lead my sailors and to foster professional relationships is negatively affected, not by my status as a gay man, but by my forced silence about my life and the artificial distance that I must hold between my shipmates and myself. I have heard many a sailor and officer say they don't care if gay men or women serve, but I can't risk being out to any of them because it puts me at risk of blackmail. The integrity of the chain of command that I am a part of is threatened by the ease of blackmail that any of my sailors has against me if he or she knows such a simple thing as whom I live with.*

*I also must tread very lightly in all of my private interactions. This policy has made me subject to stalking and threats of blackmail from scorned lovers and strangers alike. I am forced to choose between being known as a gay man, or a naval officer; very few individuals get to know that I am both. I have been subject to threats of 'outing' on a regular basis for the duration of my career. It is unthinkable that this policy gives any stranger the ability to threaten my entire livelihood, my financial stability, and my freedom, not to mention the fact that it threatens the hundreds of thousands of dollars that U.S. taxpayers have spent training me. It also creates an enormous security risk, given that I am an individual who has to work with classified information. Why do we protect the comfort of the bigots by offering strangers the ability to blackmail?*

*My commitment to the service requires that I forgo being honorable in my day-to-day life. For obvious reasons, I am frequently forced to lie to my friends, my family, my colleagues, and even complete strangers. To what end? To protect the unit cohesion that does not even exist due to my always having to hold my shipmates at an arm's length? There can be no unit cohesion or esprit d'corps amongst strangers, and that is what this policy forces gay men and women who serve to be.*

*I look forward to the day when I no longer fear those with whom I serve. More importantly, I look forward to the day when I can embrace honor as a value by which I live.*

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*I am a senior military officer and I am retiring early because I can no longer put my partner or myself through the daily anguish of, "Is this going to be the day that someone will oust me?" Crossing the retirement threshold was a relief, but that relief is immediately contradicted by the knowledge that someone, anyone can still oust me to my chain of command. I serve my country with honor, yet I am made to constantly feel like a fugitive, both at work and in my community.*

*"Don't Ask, Don't Tell" disrupts unit cohesion because it skews the balance of power that is inherent in the military rank structure. Everyone, including lower enlisted and military spouses, holds potential power over me even though I am a senior officer. Anyone of any rank can end my career. While my straight peers worry only about an Inspector General complaint by a disgruntled staff member, I always have to wonder if my pushing my staff to work harder will result in the suggestion that I am gay. It is constantly on my mind. It creates an unnecessary state of continuous emotional torment.*

*I work at the Pentagon. I hate that the conversation about "Don't Ask, Don't Tell" is taking place around me and about me without my informed input. Staff officers and lawyers are developing positions and strategies that are not informed by those of us living daily with this law. They are talking about me without knowing anything factual about me or how I might live my life if "Don't Ask, Don't Tell" is repealed. Mandated silence has a way of shielding the facts.*

*I would ask Congress to think deeply and critically about what "open service" might look like. Gay stereotypes are allowed to fill the information void in the absence of known gays and lesbians in the ranks. My 20+ years of experience tells me that "open service" would look nothing like the hysterical stereotypes that are filling these information voids. My own open service would look just as professional as my current service looks. The only thing that would change is that I would stop feeling like a fugitive when I met my partner for lunch at the Pentagon Mall because it would no longer matter who saw me. I am sad to retire and leave the service, but I can no longer live like a fugitive.*

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*I am a United States sailor. I have supported and defended the Constitution of the United States of America for almost 9 years, and I am a lesbian. I keep a part of myself hidden from the world. Everyday I put on a uniform and I give my all to my country, the same country that denies me the very freedom that I and thousands of closeted sailors, marines, soldiers, airmen, and coast guardsmen are denied every single day - the freedom to love and to live.*

*I constantly find myself looking over my shoulder whenever I go out in public with my partner. I get overly cautious when I am out with friends who are open. Millions of Americans fear losing their jobs everyday due to budget cuts. I fear losing my job because of the person that I love. I have to make sure that I do not look at her the wrong way or touch her for the fear that someone might see. There are those that believe that I should not be allowed to serve my country solely based on my sexuality, but I believe that it is not my sexuality that is the issue. I believe that those who try to keep me from serving openly lack tolerance and professionalism.*

*Some say that if homosexuals are allowed to serve openly, unit cohesion will crumble and good order and discipline will disintegrate. Forty years ago people said the same thing about African Americans. And just like 40 years ago, those beliefs are unfounded when applied to the gay community. I have read countless blogs from civilians and military alike about how allowing homosexuals to serve openly will negatively impact our Armed Forces. Sexuality does not determine professionalism, character does. I showered everyday while on deployment and my only thought was how much time I had before the chow line closed, not what the female in the next stall was doing. And when the bullets are flying, I can guarantee you that the only solid thought is about getting through it alive and not about sexual advances.*

*"Don't Ask, Don't Tell" is a discriminatory and unnecessary law that is a slap in the face to this nation and the men and women who serve in the Armed Forces. It is fundamentally wrong and unjust. Let us live our lives and serve our country without fear and without limitations. Please repeal this ban.*

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*I have been working and living under the military's "Don't Ask Don't Tell" (DADT) policy for the past 3 years and 7 months. I started my naval career in September of 2006 and I have enjoyed every minute of it. What I do not enjoy is this policy that is in place that forces me to lie to the people I work with every single day. At first, lying was not that hard to do, but now it seems like every single day it get harder and harder for me to lie to the people that have so much trust in me.*

*I work in the intelligence community and I have served in both South Korea and Washington State. I have one combat tour in Iraq under my belt and I am getting ready to go back over for my second. It is impossible to live under the DADT policy because no matter how hard you try and cover it up and lie, someone always seems to find out. I am lucky that all of the military people who know that I am gay are ok with it. They all accept me for who I am and they do not say anything because of the hard work I do and the dedication I have to defending my country.*

*Everyday I come into work, but I have the thought in the back of my head that this could possibly be the day that my career will be over. I intend to reenlist and serve my country with honor, courage, and commitment if DADT is repealed. If it is not repealed, I will get out and get*

*a civilian job doing the exact thing I am doing for the intelligence community right now. The job offers are there for me, but I don't do this for the money; I do it for my country. I cannot remain in the military if there is a policy in place that forces me to lie and hide who I truly am.*

*I do not want to leave the military because I love my country and I would do anything to defend it. I consider myself a top-notch sailor, and I have received numerous medals and awards to prove it. Every single evaluation I have ever received is above average, and I have been promoted to the next rank every time I have been up for it. The military is truly losing good people that it should not be losing due to this law, whether because they are being kicked out under DADT or because they just leave on their own because they cannot live under this law any longer.*

*It is time for repeal DADT now! This country has lost to many good men and women under the current policy, and it needs to change.*

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*As a gay member of the military medical community, I have seen first hand the negative mental, physical and social effects of the ban on gays in the military. These effects directly harm unit cohesion and readiness.*

*It becomes impossible to uphold the legal and ethical responsibilities of being both a medical provider and an officer under "Don't Ask, Don't Tell" (DADT). One is forced to either provide substandard patient care or break military law. I have seen first hand how patients and providers become too afraid to delve into important health matters for fear of having to break confidentiality. Additionally, they make the conscious decision that they must break from military policy in order to provide adequate care. Either route creates a worrisome atmosphere in which a patient's mental and physical health is put at risk and a command climate in which we must choose only one side of our professional responsibilities.*

*There is also the emotional trauma inflicted on service members due to the effects of DADT on their loved ones. How do you look at your best friend in the eyes and deny who they are? How do you survive months of deployment in battle zones not being able to speak or write to your loved one for fear of being discharged?*

*In our current global battles, our war-fighters undergo extreme hardships. The additional emotional and ethical burden imposed by this policy damages the ability of our military members to function according to the high ethical standards demanded in the military. It exponentially increases the strain of deployment on the service member, creating unnecessary emotional hardships in an already difficult situation. This increases the risk of emotional breakdown, suicide or any number of health problems for even the most experienced, hard working and stable people. This poses a much greater threat to the mission and the unit. The typical GI is concerned with the happiness and well being of his battle buddy far more than the gender of who makes him happy and keeps him sane.*

*We join the military because of our sense of duty and a desire to serve our great country. We know from the start that this will require great sacrifice, potentially of our own lives. Why must we, a broad subset of the military that spans every age, rank, gender and race, be forced into a position of being overburdened and put at greater risk for medical and psychological damage than our counterparts? Simply allowing us to live honestly enables us to continue to serve our country proudly, effectively and safely.*

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*I am an active duty Army major and a highly specialized physician with eleven years of service. I have deployed to Iraq, won awards, and published a dozen scholarly articles. I have devoted my life to my career, and I hope to continue my Army service for many more years. I am well-respected by my peers and supervisors, many of whom know that I am also gay.*

*The current policy has had a huge negative impact on military readiness. In my career, I have met dozens of gay and lesbian active duty service members, many of whom are professionals in language, intelligence, and health care specialties with personnel shortages. Most of these colleagues continue to serve in silence, but many have chosen to leave the military because of "Don't Ask, Don't Tell" (DADT). Replacing their specialized skills is no easy task at the current OPTEMPO.*

*The policy negatively impacts my personal morale, as I am unable to share my life story with my comrades at arms. This negatively impacts unit cohesion because I am seen as impersonal, stand-offish, or uninterested in my soldiers, even though I am merely protecting my private life from the military's unfair policy. Many of my colleagues have been aware of my situation, and it has yet to negatively impact a single one of my working relationships. At least three of my military commanders have also known that I am gay, and none has ever had any issue with it.*

*Unfortunately, I have had to remain cognizant that any enemies I create at work could potentially out me and ruin my career. This has impacted my ability to objectively evaluate those whom I supervise: a poor evaluation for a sub-par performance could create a personal vendetta against me. In this way, the policy has affected my ability to do my job with integrity.*

*The policy has definitely had a negative impact on me financially in that I have not received health benefits for my partner, nor dependent pay, nor wartime separation pay, nor support for him in myriad other ways. As one example, the Red Cross assists soldiers and family members with airline tickets for family emergencies. When my mother died, I was not able to get a ticket for my partner to travel with me to her funeral through the Red Cross. I ended up purchasing both of our tickets, rather than traveling separately for 15 hours during such a difficult time for me.*

*My partner and I have been in a committed relationship for nine years. We have been through three military moves together, as well as frequent separations due to my deployments and TDYs. The lack of support for my military partner is one of the greatest negative impacts that the current policy has on my career. I live in fear that if something happens to me while deployed, no one will notify my life partner and he will be the last one to know.*

*Congress must act immediately to remedy the unfair situation faced by gay and lesbian service members who only wish to serve their country proudly, openly, and without fear of reprisal.*

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*I have been on active duty for 19 years. I have served overseas, at various postings within the United States, on ships, and on three overseas tours in support of the Global War on Terrorism. I am also gay.*

*I recently finished a command tour in Iraq. During that tour I had gays and lesbians working for me and in other commands that worked closely with mine. Their performance was as good if not better than any heterosexual service member. They are neither disruptive nor bad for morale. The morale in my unit, according to my senior enlisted, was the best he has ever seen in 20 years in the Army.*

*I am dismayed that "unit cohesion" is thrown around as a buzz phrase that should mean something. Having gays and lesbians in my unit did not disrupt unit cohesion. Unit cohesion is created by good leaders, both officer and enlisted, and it is sustained by good service members who want the unit to succeed. I have seen it time and time again; there is no detrimental impact on unit cohesion by allowing gays and lesbians to serve. This is coming from someone who currently serves on active duty and was in a forward deployed combat environment. I am not an academic researcher of the issue nor am I a pundit or an elected official forced to choose words wisely. I am someone who commanded both gay and straight service members in Iraq. From my on-scene leadership position, I can attest to zero impact.*

*I served prior to "Don't Ask, Don't Tell" (DADT), and under it and I have seen the devastation that it has created and the lives it has ruined. I have also seen the negative impact that removing a qualified service member from a unit has when the only reason for removal is sexual orientation.*

*I serve with pride and distinction. Troops have told me that I am the best commanding officer they have ever served under. This is not hollow praise, nor is it meant to support my ego. It is a fact, and it is a fact despite my sexual orientation. I treat all personnel with respect and dignity and I demand the same. Some know of my orientation and some do not. I have had numerous discussions with service personnel who uniformly say the same thing: "Sexual orientation makes no difference. Positive impact on the command is all that matters."*

*Finally, I will state that as a career officer, and one who has given everything to the service, I am offended that some of gays and lesbians as sexual predators. That I, because I am homosexual, am incapable of controlling my sexual desires. That my entire reason for being is somehow tied to a sexual act. That I am incapable of showering with other men without sexual arousal. Those who spout this rhetoric are telling me directly that I am incapable of being a professional officer. I am offended that they find it appropriate to send me thousands of miles from home for years at a time, separate me from friends and family, and place me in danger on a daily basis, but then they imply that I am unfit to wear the uniform because I am gay. My orientation does not now, nor has it ever, negatively impacted my service. I have personally had to prosecute exponentially greater numbers heterosexuals for sexual assault and harassment than I ever have homosexuals.*

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*I write to you today from atop a hill in Baghdad. It is my pleasure to finally be able to have my voice heard.*

*I have served our great country on multiple deployments and am at the end of my contract. Throughout my experience in the Army I have learned many things, one of these being the price of freedom. I am disappointed that America needs to have the debate over whether "Don't Ask, Don't Tell" should be repealed. It is embarrassing for me to preach freedom when I myself am not free. I, like many of my brothers and sisters in the military, have repeatedly put my life on the line for this freedom. Yet individuals with power use these freedoms – freedoms that we protect – to block those very freedoms from us. What we are asking should not be considered extensive. We ask that we be able to live in pursuit of happiness, that we can have our integrity and not have to live a lie.*

*When I joined the Army I told myself, "Never again can anyone tell me that I am not an equal, that I am a second class citizen, that I do not deserve the same rights. I am fighting for those rights. I am fighting for my future family's rights!" This idea to me now seems childish. I used to believe that our government was there to protect our freedoms. Would the Jim Crow laws still be in effect were they put to a vote? I wonder when our nation's leaders will stand up for us.*

*One of the biggest issues I am faced with regarding the "Don't Ask, Don't Tell" policy is the fact that currently in Washington State, my partner is sacrificing, sometimes more than myself. If something were to happen to me, my mother would be called, but he would be the last person to find out. This is not right. My partner and I have been together longer than most of the men in my unit have been with their wives. We know the meaning of love and sacrifice. We are together not for the extra pay, as many soldiers are, but because of the love we share.*

*I find it a ridiculous assumption that morale would go down if I were allowed to serve openly. I can tell you, being active duty, this is most certainly the reverse. I have a hard time being a member of a team that does not know me. When in garrison, I remove myself from my peers. I associate myself with people I can be honest with and around whom I do not have to*

worry about my career. Were I to be able to eliminate these worries, I could become closer to those with whom I work. This is evident to me from the service members who do know that I am gay. They mostly did not know any gay individuals until meeting me. After meeting me, they found that being gay does not matter. These are my closest work friends. I work best with these individuals because they know me for the real person I am, not who I must act like. Morale would increase were "Don't Ask, Don't Tell" to be repealed.

The military is faced with many challenges. One of these being the fact that many individuals who are completely different, and who most likely would not have been acquaintances in civilian life, must pull together and learn to respect one another. We must perform missions with people we might not exactly understand, or even like for that matter. The second that bullet flies by your head, you look at your buddy and you both realize you're in the pit. In that moment you realize the meaning of equality. In that moment you can see that regardless of one's sex, religion, skin color, socioeconomic status, or any factor, including sexual orientation, we are all one. One team, one fight. I ask that you allow me to enjoy the freedoms that I put my life on the line for - freedom of honesty, and of equality.

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I am both a former sailor and the lesbian partner of a current active duty sailor. I did not choose to be born gay. My partner did not choose to be born gay. We did, however, choose to give our lives and our family in service to this nation. We choose to live our lives with honor, courage, and commitment, as befits United States sailors.

I spent ten years on active duty as a military intelligence specialist. I achieved the rank of Chief Petty Officer (E-7) in that time, which is no easy feat. My sailors guessed the truth about me, yet they served under me anyway. I trained them, cared for them, led them, and was the best NCO I could be. I had gay sailors as subordinates, and did everything I could to lift them up in the face of discrimination. The intelligence I provided protected American lives, and protected America's national security interests in the Pacific.

I was raped by another NCO one night after he saw me out with my partner. He was outraged at a woman having been put in a position of authority over him, and he was resentful of my expertise and accomplishments. "Don't Ask, Don't Tell" gave him the cover he wanted to exact revenge in the most horrific way he knew. After he raped me the first time, he whispered in my ear that if I reported it, he would out me to the chain-of-command. The abuse continued for months before I separated from active service. I suffer from complex PTSD due to Military Sexual Trauma. I did not report the rape and abuse I suffered out of fear of losing everything. "Don't Ask" has kept justice out of my reach, and has taken my life from me. This policy is not working. This policy is protecting a rapist, and it continues to put other service women in danger. When I separated from active service, the Navy lost a skilled, dedicated Chief Petty Officer due to "Don't Ask, Don't Tell."

*My beloved re-enlisted some time ago, despite our family's trepidation about it. As a "Navy wife" all I could do was support her, watch as she packed her seabag, and kiss her goodbye when she left to answer the call of duty. I am now left alone with no support. Our military family is neither cared for nor protected. As a "silent partner," I have no access to base facilities, to Tricare, to family assistance services. If my partner dies, I will not be notified. If she is injured, I will not be allowed to visit her in the hospital. If she is incapacitated, I will not be able to make the medical decisions with which she has entrusted me. This policy is not working. This policy is ripping our military family apart, and leaving us without the protection that other families take for granted.*

*"Don't Ask, Don't Tell" at its core is about protecting the bigotry of the ignorant and fearful. The "social experiment" so terrifying to some has already happened. Gay people are already serving honorably and coming out to our units. The shrieks of "They'll see me in the shower!" are rancid outbursts designed to justify prejudice. They perpetuate the tired, insidious myth that gay human beings are no better than animals, unable to control ourselves. These insinuations dishonor gay troops, our professionalism, our devotion to duty and to the team. It is disgraceful, and it shames an otherwise honorable institution that prides itself on personal integrity and teamwork.*

*The Armed Forces continuously promote "core values." The Navy and Marine Corps claim that honor, courage, and commitment are at the root of every sailor and marine. The Army core values are loyalty, duty, respect, selfless service, honor, integrity, and personal courage. The Air Force espouses "integrity first, service before self, and excellence in all we do." There is no honor or integrity in giving cover to violent rapists. There is no courage in preventing skilled, devoted Americans from serving their country. There is no excellence in endorsing prejudice and bigotry. There is no respect for the invisible family members of gay troops who suffer in silence while their loved ones deploy. The only core value I see in a policy like "Don't Ask, Don't Tell" is prejudice. This policy is not working.*

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*Before joining the military, I was open about who I was. There were no secrets, there was no shame. I was not criminalized for the way I was born. Having never been in the closet, I never knew how bad it could be for me to go into it. I thought I could handle living with a secret like being born gay while serving in the military. I was very wrong.*

*Listening to other sailors talk about their spouses and significant others and having to remain silent is horribly isolating. Straight sailors are not told to lie. They are encouraged to have real love, a supportive family, someone to help them cope through deployments and the stress of being in the Armed Forces. I am denied that. I am denied a crucial part of the human experience.*

*The pressure to keep the secret was overwhelming, so much so that I have developed clinical depression. At times, suicide seemed the only way out. If I have this secret and cannot*

*tell anyone about the secret without losing my job, how can I get help? Currently I am in treatment for depression, but I have military doctors. I am unable to discuss the main issue behind the depression and my suicide attempt. I have to lie to my doctors. "Don't Ask, Don't Tell" is keeping me from getting better.*

*"Don't Ask, Don't Tell" nearly killed me. It's still killing me one piece at a time, with every breath, every day.*

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*As a Staff Sergeant in the United States Army, the current policy of "Don't Ask, Don't Tell" affects my life and career each and every day. I currently serve as a Platoon Sergeant for a platoon of twenty soldiers. The vast majority of my soldiers are either married or in a long-term heterosexual relationship. Their spouses or significant others frequently drop by the armory and rarely miss attending the many family functions our company sponsors throughout each year. I am constantly being asked if I have a "girlfriend" and if so, why she never comes to any company functions. It is difficult for them to understand "why" I do not have a girlfriend and even more difficult for me to have to live a lie every day...of every week...of every month...of every year. The key elements that bond a Platoon Sergeant with his soldiers are trust and honesty. How does one gain another's trust when you cannot be totally honest?*

*During my second mobilization to Iraq, my partner of four years had an emotional and mental breakdown. I was not there to help him through this difficult and trying time. Family Readiness Groups are designed to help the spouses and family members of servicemen and women during "hard" times. Because of the "Don't Ask, Don't Tell" policy, there was no one for my partner to turn to when he needed help. Having to deal with the many responsibilities (which were shared prior to my deployment) alone was more than my partner could handle and produced an emotional drift in our relationship that could not be repaired.*

*I have devoted my entire adult life to serving this great country. I love the military and truly enjoy the career I have chosen. My goal is to someday retire from the United States Army. I hope to find that I have spent the majority of my life readily defending the United States of America. Right now, I live my life in constant fear. One slip up and the career I so dearly love could be over. I fear that everything I have worked for could suddenly just vanish. Maybe someday the gay soldier can lay this one fear aside. There are many gay soldiers currently serving in the United States Army and dealing with similar situations every day...of every week...of every month...of every year.*

*It would be in the best interest of all servicemen and women currently serving our great nation to repeal the current policy of "Don't Ask, Don't Tell." I believe this will be a productive step forward for our nation's Armed Forces.*

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*I am on active duty serving as a senior officer in the military. When I joined the military years ago I knew homosexuality was not allowed, and at that time I did not know I was gay. However, after church counseling and examining my life experiences, I realize I have always been gay. But times change, and by the time I realized it "Don't Ask, Don't Tell" (DADT) was in place and I could continue to serve. But I could not be honest with everyone. I had to play the hetero game all the time, constantly making jokes about gays, women, etc. just to fit in at the unit.*

*I have been the subject of a DADT investigation because someone that worked for me, along with other friends, made up jokes about me along with several other people (they don't know). The point is, an officer who didn't like me decided to turn this in as "fact" against me without any concrete proof. Having to undergo intense questioning and humiliation, not to mention the intense fear, made me feel ashamed and seriously affected my ability to command the troops. The military chose to call my civilian friends (who did not know) and proceed to ask them if I had been giving them oral sex. I felt this was a hunt just to get rid of me. By getting rid of me, the senior ranking officer could move his "friend" into my job and position.*

*Since I have come to understand my being gay, DADT has done nothing for me except force me to hide in shame and fear and make jokes about gays with my "friends and co-workers." When I chose not to follow this behavior, my friends made jokes about me, which allowed other officers the ammunition to get me out of the picture so others could advance. I have spent a lot of time in the military, all the while hearing how the military does not discriminate and how it does not tolerate the type of behavior I have live with for the past 8 years. For me, being gay should not be a concern in the work place; whether you can do your job and do it well should be the only concern.*

*What would the repeal of DADT do for me? In all honesty, my day-to-day military actions would still be the same, only I would not be living in fear and shame. I would be equal.*

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*Serving under "Don't Ask Don't Tell" (DADT) has been quite a thorn in my side. First of all, I want to make it clear that serving my country is an honor that all citizens of the United States should experience. Being in the military has taught me many things about myself and has always been an important part of who I am. With that being said, serving under DADT keeps me second-guessing myself. I'm always aware of what I say before I say it to make sure that I do not expose anything from my private life. I do wear a wedding band, and am asked on occasion about my "wife". I have learned to just not answer any question which might lead to who I really am and jeopardize my relationship.*

*During my last deployment to Iraq, I had to support and give advice to the airmen under my supervision when needed. It always tore me up when I had to listen to them discuss certain*

*situations they were having with their wives and children - always knowing that I would never get that kind of support. There were times I really wanted to talk with someone to get reassurance that my family will be taken cared of, just in case something were to happen to me.*

*DADT keeps me from totally fulfilling my duties because I have to always be on guard. I hope this policy is ended and I can continue on with my career in the military without the fear of "slipping up" and getting tossed aside because of who I am in my private life. I love my partner and he is the main reason I will go and fight for freedom wherever my country sends me.*

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*I used to say that watching my partner leave for war was the hardest day of my life. Yes, it was a pretty terrible day for sure. I had to drop him far from the main gate so that he could walk alone in the rain to report for duty, as we were afraid someone would see us together and start asking questions. I knew that he would stand alone at all the deployment ceremonies while others were surrounded by their family members.*

*It was agonizing when he was in combat in Iraq and I would not hear from him for days, knowing full well that no one from the military would ever contact me if anything were to happen to him. It was also very difficult to disguise all of our communication (letters, phone calls, etc.) so that no one would get suspicious. I was constantly afraid of saying the wrong things and putting his career in jeopardy.*

*There was the searing pain of not being able to greet him when he finally came home, knowing that every other soldier got to see their loved ones as they stepped off the plane. Then came the day when my partner became overwhelmed by the things he experienced in combat - things he still can't bring himself to tell me about. That was the most terrible moment when I realized the gravity of his incredible sacrifice, and that it could all be in vain if one little slip destroys his career and gets him kicked out of the military.*

*In our country, we tell our kids they can be whatever they want to be when they grow up. Tens of thousands of gay and lesbian soldiers follow those dreams every day, despite the threat of losing everything simply because of the person they love.*

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*I am a Staff Sergeant in the U.S. Army. I have served now for nearly five years. From the beginning of my service I never really thought about my orientation nor really felt the effects of how it would impact me in my military career. I have excelled well beyond my peers, coming into the Army as an E-1/Private and reaching the rank of Staff Sergeant within four years.*

*Two weeks ago, a Lieutenant Colonel came to me and offered me the chance to enroll in a program the Army calls Green to Gold, which entails me getting out of the Army on a contract to go to college and come back in as an officer. This was one of the highest honors I have received so far in the military. When I told my father he never seemed more proud. But I declined.*

*I am in a relationship that is going steady. This summer we plan to take the next step and have him meet my parents. I am taking this relationship seriously and I do not think it would be fair to him to have me continue to serve in this organization that not only denies gay people the right to serve their country with a bit of integrity and dignity, but one that also does not support gay families. I have realized that I do not want to deny myself the same basic things my straight counter parts have in their lives, like a healthy relationship.*

*I am currently serving as a public affairs specialist. This is an MOS that requires a minimum GT score of 110 to even get in to, and the training is pretty intense. Needless to say, it is hard to find qualified people to do this job, but it is even harder to retain non-commissioned officers in this field. These skills are very marketable outside of the military.*

*I have always been pretty open about my sexuality toward my peers and soldiers. I have never received any backlash. I have a pretty healthy group of friends who support me. I do not think it is about the color of one's skin or their sexual orientation. What it really comes down to is whether someone is willing defend their buddy next to them in the heat of battle and do their job well while in garrison.*

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*I am a gay man currently serving on active duty in the United States Navy. I have been on active duty for over six years now and I have 3 combat deployments under my belt. As a hospital corpsman, I served with the Marine Corps for 4 years with an infantry battalion on the ground in Iraq. Those four years were the best years and the worst years of my life.*

*Throughout my time serving with the marines we lived together, fought together and cried together. My marines and fellow sailors looked up to me. I did my job and did it well. I did my best to take care and protect my marines. I went above and beyond to ensure their safety. I didn't even trust my fellow corpsman to take care of my marines. If I was sick, I pretended to be well so that I could still be there to take care of them. However, the entire time I worried that if my secret were ever uncovered, no matter how many lives I saved I would always be looked at as "that homo."*

*Eventually I became comfortable enough to tell one of my marines. To my surprise, it was already suspected within my unit. But also to my surprise, he was ok with it. I eventually found some accepting friends within my unit and we became close. They became my family. They helped me come out to my parents and they gave me the courage to become more comfortable with myself.*

*We later went on one last deployment together and even though I had my family with me, it was still rough. I wanted to be honest. I wanted to live freely, but living freely in the military is not allowed. Even though you might be accepted by some of your peers, there is always the fear that one person that will have a problem with you and end your career.*

*Now I am no longer stationed with the marines. I accepted orders to transfer to a clinic, and I hate the day-to-day stress of being uncovered here by someone who can end my career. I have never been afraid of anyone physically hurting me, but losing my career over my sexuality is not worth it to me. I would much rather get out of the Navy and be happy.*

*The result of keeping this policy in place will be what is happening to me now - our fighting force will continue to lose good men and women who happen to be gay. We will continue to lose capable men and women who proudly rose to the challenge to defend their country.*

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*I currently serve on active duty, and every day I feel the impact that "Don't Ask, Don't Tell" (DADT) has on me and on my family. Unlike others, my family has to take a backseat while all around me I watch others care for their families in great strides. A yearlong deployment is looming for my unit, and the strain it will cause is going to be tremendous for each and every service member, regardless of their sexual orientation. Should something happen to me while on deployment, my partner should be the first person to know.*

*I am proud of my relationship and how far we have made it despite the hardships, and I cannot even begin to give thanks for the support she has shown me. It hurts me to think that I cannot share some of the most memorable moments of my active duty service with her. My job means so much to me and I want her to be able to experience some of it as well. I cherish the opportunities I have been presented with, but none of those are extended to her. All the while, we both are sacrificing parts of our self in support of the choice that I made. Her voice deserves to be heard, as well as my own, because I am not alone in this fight.*

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*I have been in the military for almost 12 years. I was enlisted for 11 of those years and earned the rank of Staff Sergeant. I was an active duty soldier for five years. While on active duty, I was promoted to Sergeant after only 3 years and won numerous "Soldier of the Year" competitions. By the time I left active duty, I had earned 4 Army Achievement Medals and 3 Army Commendation Medals.*

*I joined the Army National Guard after active duty. I deployed to Iraq and led a squad of 10 soldiers. While in Iraq, I was promoted to SSG and won NCO of the month and quarter. I came home from Iraq with one more Army Achievement Medal and a Meritorious Service Medal.*

*After Iraq, I went to Officer Candidate School and graduated with the highest grade point average in my class. I was commissioned as a Second Lieutenant. In the short time I have been serving as an officer in my National Guard unit, I received accolades from every one of my superiors.*

*I love the Army. I love serving my country. Every single time I put on my uniform, I feel a rush of pride through my whole body. I have given blood, sweat, and tears for the Army. But, even after all of my accomplishments, I could be fired at any moment simply because I am gay.*

*The funny part is that everywhere that I have gone in the Army, everyone pretty much knows that I am gay. It is not hard to figure out. No one really cares and I have never been harassed about it. Unfortunately, I cannot bring anyone over to my house after our weekend training. My boss really wants to come over for dinner, but I cannot invite her because she might see a picture of my partner and me. When I go to my monthly training, I make sure to take off my ring that my partner gave me because I do not want anyone to ask me any questions. Some of the other gay soldiers I know play the "pronoun" game - they will talk about their partners as if they are the opposite sex. I do not do that, as it seems to me that it would be too easy to slip up.*

*The hardest part was when I deployed. I had been with my partner for almost 8 years, but at the going away ceremony, she couldn't hug me one last time. She watched from the back, tears streaming down her face. While I was in Iraq, my biggest fear was not the bombs that fell hourly, but the thought of something happening to her because I knew that I would not be able to go to her or really talk about it to anyone. She could not participate in any of the great things that the spouse support groups were doing back home. I could not have pictures of her on my desk or in my wallet and it hurt to not be able to talk about her to my friends while in a war zone. I felt very alone, and that impacts the mission.*

*People ask me all the time why I do it, why I put myself through this. Sometimes it is hard to answer that question. When I hear people talk about how gays cause discipline problems and are a detriment to the military, it really hurts because I give so much for this country. Sometimes I feel hated by the very organization that I love so much. I just know that being a soldier is the most important thing in my life and I guess I am willing to deal with the hardships.*

*My dream is that the policy will change soon so that I can get rid of the weight that I carry around with me - constantly scared that the wrong person will see me out with my girlfriend or discover my secret. I should not have to live like that in America. Sometimes I wonder how such a policy can even exist in the United States of America. I think the more people hear about it, the more likely it will be changed. That will be the happiest day of my life.*

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*As a member of the United States Navy who has served on both active duty and now in the Reserves, I have had the opportunity to serve along side the sailors who make up the Naval Special Warfare community over the span of my Naval career.*

*I come from a family with a rich history of serving in the military. My grandfathers and uncles have worn the uniform of both sailor and soldier in multiple wars. They inspired me to wear that uniform and to carry that badge.*

*During my career, I have had the great privilege to work with some of this country's most regarded and respected war fighters, first as an enlisted sailor and then as an officer. These sailors are truly brothers in the field of combat for whom I would give my life for should the need arise. And there is no doubt that they would do the same for me. Why? Because on the battlefield, where it counts, it is mission first. We all serve with the same honor, courage and commitment that we swore an oath to when we first raised our right hand to join the United States military.*

*Whether in a training environment or down-range, the men and women that I have served with have become brothers, life long friends, and family. As senior NCO and as an officer, I have been there to share their hardships of loss and love, their joys of success and triumph, and to know them and their families. Yet only a few have been able to share the same with me.*

*I spent the majority of my career changing pronouns and hiding the identity of the person that I shared my life with for over 8 years because I am gay and that would end both of our careers and strip us of the pride with which we both serve. Through multiple tours, he and I secretly and covertly supported each other through cards, letters and care packages. Never being able to sign a card or letter in true name or even giving a return address. We knew that each piece of correspondence could very well be the last, but it was that love for each other and each other's goals that drove us to continue to endure.*

*Like our equals, we too had to make sure that things were taken care of back at home. As best as we could, we made sure that the other would be provided for should one of us pay the ultimate sacrifice. And under the current policy, we would each be the last to be notified about the other. There were the same bills, illnesses and household issues. There were the same legal concerns of wills and powers of attorney. However, its not that simple when you have to, even in death, protect the one that you love.*

*All of this we must endure with little or no support, as we are not provided for in the same ways as are our heterosexual counterparts. We must carry a burden of silence and invisibility each day that we serve. This makes us have to fight harder and train harder just to wear the uniform with the same distinction as those around us.*

*It is true that through the years our network has grown and through multiple duty stations, deployments or assignments, we have learned that we are not alone. We are in the mountains of Afghanistan and the streets of Fallujah. Whether onboard a ship or on a plane, leading or following, there are thousands of other gay and lesbian soldiers serving each day*

*alongside our heterosexual peers, many who have become accepting as they open their minds and hearts and get to know us. We all train, fight, bleed and die the same way and for the same things - life, liberty and the pursuit of happiness.*

*In closing, I state that it is time for the repeal of this antiquated policy called "Don't Ask, Don't Tell." Just as those who have served before me and those who serve now and in the future, we will continue to fight for the rights of all men and women of the United States and its allies.*

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*I have been on active duty for almost 10 years and throughout my time, I have seen many valuable men and woman get discharged solely because of their sexual orientation. In the cases I have come across, these men and woman are the most dedicated and hardest workers in their fields. We should not be discharging fully capable and valuable members, who volunteer to sacrifice their lives for their country, just because of who they are.*

*I think the ignorance and lack of education about gays and lesbian sis what is preventing us from serving openly. I believe the only way for people to accept gays is through education and integration. I grew up in a farming community in Nebraska, and I had never seen or talked to an African American until I went to basic training. My bunkmate was African American and we turned out to be best friends. Though this integration, I was able to get rid of all my stereotypes and discover that we have a lot in common, and we have developed a lifetime friendship because of it.*

*I currently live in a constant fear because of who I am. I have to live in two different worlds, and it is really beginning to drive me to the point of not re-enlisting. I am not one to advertise to everyone that I am gay, but I constantly come into situations where my colleagues at work try to set me up on dates or talk about other females. It is not everyone else's business to know I am gay, but when these situations arise I fear being found out and I resort to lying.*

*I am very dedicated to my job and I have won yearly awards for my achievements. However, none of those will mean anything should the day arrive that my secret is discovered. I have chosen to do whatever possible to help preserve that the freedom this nation is cherishes, but DADT is preventing me from partaking in that very freedoms myself.*

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*In the Navy, attendees at retirement ceremonies often hear a touching poem that details how God specifically created a special breed of tough, yet caring, wives to keep the home fires burning while the sailor goes to sea. This recognition comes with good reason - a lifetime of service involves tremendous sacrifice, for both servicemembers and for the loved ones who support them.*

*This recognition of sacrifice does not just happen at career milestones like retirement. Through its actions, the military obviously recognizes the everyday importance of military loved ones and domestic support structures. Monetarily, the military pays more money in to married couples, it provides health care to spouses and children, and it reimburses family relocation expenses. Socially, it provides family members with services and outlets such as childcare, MWR facilities, employment services, commissaries, and exchanges.*

*In the face of this outward appreciation and recognition of the importance of domestic support, the argument that "the current policy barring homosexuals from serving openly does not prevent homosexuals from serving, it merely prevents them from being gay at work" rings hollow. Supporters of the ban argue that gay military members can serve just as well as straight ones by just failing to recognize aspects of their gay lives at work. This, however, forces gay service members to ignore the support structures that make a life of service possible. It forces a greater burden on gay military members than the military is willing to let straight members endure.*

*Many gay and lesbian service members already serve honorably and have committed loved ones who provide just as much support on the home front. In a necessarily transient lifestyle, however, loved ones must pay for their own moves. They must find their own healthcare, pay for their own gyms, and reconcile themselves that their partner may not feel comfortable making them beneficiaries in wills or life insurance. In exchange for their support and sacrifice, the military rewards them by forcing them to hide their support for fear of outing their loved ones in emails to the battlefield and during deployed phone calls.*

*The gay service member's inability to recognize the sources of his successful service, however, has a more troublesome aspect. Most leave home without discussing one nasty little truth with their loved ones. That is, should the service member never return home alive, the flag that drapes his casket will not go to the one who supported and sacrificed for his service. The loved one will not receive the benefit of having a fully-dressed CACO and chaplain deliver the feared, "We regret to inform you." In essence, the current policy necessarily denigrates the contributions of our loved ones, even in death.*

*Gay people already serve in the military. Some of the best officers I know are gay, and they are in some of the healthiest relationships I have ever observed. They, like all military members, suffer under the burdens of maintaining relationships in the stressful environment of military service. The military can enhance readiness by recognizing this.*

*In the big picture, I do not want to prance about the workplace proclaiming my homosexuality. Rather, I want the ability to serve in an environment where my sexuality has become irrelevant. Removing the policy is the best way to make this happen. In a political environment where people can fabricate facts to support their arguments, this debate often turns personal, to the point where it saddens and angers me. I often exercise in military gyms beneath talking heads on TV who, although they have no connection to the military themselves, consistently impugn my integrity, my professionalism, my service, and my sacrifice because of my sexual orientation. I know I will never convince them. I do not want to. It would serve the*

*military well, however, to recognize the sacrifice and contributions that gay service members and their loved ones already make to defend this country.*

*The military should support all service and sacrifice by supporting all who serve along with their domestic support structures. Personally, I just want the military to make it a little easier for me to do what I do every day - my job.*

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Written Statement of  
Joe Solmonese  
President  
Human Rights Campaign  
To the  
Senate Armed Services Committee  
U.S. Senate  
Room SH-216  
Hart Senate Office Building  
March 18, 2010

Chairman Levin and Members of the Committee:

My name is Joe Solmonese, and I am the President of the Human Rights Campaign (HRC), America's largest civil rights organization working to achieve lesbian, gay, bisexual and transgender (LGBT) equality. By inspiring and engaging all Americans, HRC strives to end discrimination against LGBT citizens and realize a nation that achieves fundamental fairness and equality for all. On behalf of our over 750,000 members and supporters nationwide, I submit this statement to urge members of Congress to act now to repeal the "Don't Ask, Don't Tell" (DADT) law, the law prohibiting lesbians and gays from serving openly in the military.

#### **DADT is a Failed Law**

In 1993, Congress enacted DADT, which replaced the Department of Defense policy that banned lesbian and gay individuals from serving in the military. DADT was purportedly enacted to allow lesbian and gay individuals the ability to serve in the military. However, according to DADT, lesbian or gay individuals may not serve in the military if they are open and honest about their sexual orientation. DADT is the only law in the country that requires people to be dishonest about their personal lives or risk being fired. Americans recognize that on the battlefield, it does not matter whether a soldier is lesbian, gay or straight; what matters is that a soldier gets the job done. This law has proven to be an utter failure and it hurts military readiness and national security while putting American soldiers fighting overseas at risk.

#### **Inconsistent Application and Arbitrary Enforcement**

Although opponents of DADT repeal often say that DADT is working well, let me be clear, it is not. DADT has been inconsistently applied and arbitrarily enforced, which is a clear sign that the law is not working. Just last month, Secretary of the Air Force Michael Donley explained to the House Armed Services Committee that the DADT law has not been applied consistently across the military. For example, the *Witt* standard – which is the Ninth Circuit standard that requires discharges to survive intermediate scrutiny – is only the law in the Ninth Circuit (*Witt v. Dep't of the Air Force*, 527 F.3d 806, *reh'g and reh'g en banc denied* 548 F.3d 1264 (9<sup>th</sup> Cir. 2008)). The existence of inconsistent legal standards across the country does not imply that the law is working.

In addition, as DADT is currently applied, the commanding authority of a unit initiates DADT discharges for his or her unit. Each commanding officer applies DADT based on his or her interpretation of the Department of Defense's policy on DADT. The DADT law and the policies enacted as a result of the DADT law prohibit a service member from making statements, engaging in acts or partaking in marriages that demonstrate that a service member is lesbian or gay. The vague DADT policies do not clearly articulate what statements or acts require a commanding

authority to initiate a DADT discharge. Too often, investigations are initiated based on third-party reports that bear no relationship to statements or acts. The vagueness of the policy and the arbitrary nature with which discharges are initiated are signs that the DADT law is not working.

Discharges under DADT declined in 2009 for the Army, Air Force, Navy and the Marine Corps. DADT discharges totaled 428 in 2009 compared to 619 in 2008, according to data provided to Congress by the Department of Defense. In time of war, discharges have decreased, even as anecdotal evidence strongly suggests larger numbers of lesbian and gay service members are serving openly. Individual commanders are deciding to retain otherwise qualified personnel in a time of war despite the current law. Although some service members are serving openly in the forces, they are always haunted by the specter that they may be subject to discharge proceedings. Because of the inconsistent application of DADT, the vagueness of the Department of Defense policy and the unpredictability of discharges, how can anyone argue that this law is working?

#### **Weakens Our Military**

Since DADT was implemented in 1993, more than 13,500 service members have been discharged because of their sexual orientation. A 2005 Government Accountability Office report found that by 2005, discharges of service members with mission-critical skills was nearing 800. This means that hundreds of service members with the skills that the military has identified as crucial for the success of current operations, such as intelligence analysts, have been discharged. Those discharged include hundreds of linguists, more than 55 of whom are Arabic linguists. These discharges are troubling because there is a current shortage of Arabic linguists in our military and because we are in the middle of two wars.

#### **Prevents/Discourages Military Service**

Also alarming, our military loses a significantly large number of lesbian and gay individuals that want to serve their country but decide not to enlist or continue their service because of DADT. A 2010 Williams Institute report estimates that lifting DADT restrictions could attract an estimated 36,700 men and women to active duty service and 12,000 more individuals to Guard and Reserve service. In addition, a 2007 Williams Institute report estimates that over 4,000 lesbian and gay service members would be retained each year if they could be more open about their sexual orientation. Since the beginning of the Iraq war, the military has eased recruitment requirements, including age, intelligence and moral standards. Thus, while convicted felons such as rapists and terrorists have received "moral waivers" to serve in the military, open service remains a barrier to enlistment for lesbian and gay individuals. It makes no sense to turn away qualified lesbian and gay individuals who wish to serve in the military while our military forces are being stretched thin by two concurrent wars.

#### **Unnecessarily Wastes Taxpayer Dollars**

Beyond the personnel numbers, the financial costs of DADT are not insignificant. Enforcing DADT has cost American taxpayers between \$290 million and over a half-billion dollars according to a 2010 Williams Institute report. This report further concludes that the military spends an estimated \$22,000 to \$43,000 per person to replace those discharged under DADT. However, the cost of DADT is even more shocking if you look at specific examples of DADT discharges. Lt. Colonel Victor Fehrenbach is currently being discharged from the Air Force. Because of Lt. Colonel Fehrenbach's sexual orientation, the government will lose the estimated twenty-five million dollars it invested in training and equipping Lt. Colonel Fehrenbach to serve his country. All of these numbers show that DADT unnecessarily wastes tax payer dollars that could be better spent on body armor or Humvees to protect our troops.

### **Public Support for Repealing “Don’t Ask, Don’t Tell” is Strong and Continues to Grow**

The American public recognizes that DADT is an unnecessary and failed law. Support by the public for open service by lesbian and gay service members has grown by 31 percentage points since DADT was introduced over a decade ago. A Washington Post/ABC News poll conducted in July 2008 found that 75 percent of Americans believe openly lesbian and gay citizens should be able to serve in the military. In contrast, similar Washington Post polls found that 62 percent of the public supported open service in 2001 and 44 percent supported open service in 1993. This polling shows that public support for open service in the military of lesbian and gay individuals has grown significantly since DADT was enacted.

Moreover, polls have shown that a majority of Americans, regardless of political affiliation or political views, support open service. According to a 2010 Quinnipiac University poll, 72 percent of Democrats, 56 percent of Independents and 53 percent of Republicans support repeal. Less than a year prior, a 2009 Quinnipiac University poll found that 67 percent of Democrats and 42 percent of Republicans supported repeal. Additionally, according to a 2009 USA Today/Gallup poll, 86 percent of liberals, 77 percent of moderates and 58 percent of conservatives support open service. Based on these numbers, acceptance of open service is not a partisan issue. It is one of the few issues where a majority of Republicans and Democrats agree.

Polls have also shown that a majority of religious individuals support open service. A 2009 USA Today/Gallup poll found that 60 percent of Americans who attend church weekly and 70 percent of Americans who attend church nearly weekly/monthly support open service. In contrast, in 2004, a CNN/USA Today/Gallup poll found that only 49 percent of weekly church attendees and 66 percent of weekly/monthly church attendees favored open service. These numbers show that acceptance of open service in the religious community is growing in the same manner as acceptance of open service by the general American public. Furthermore, based on a 2008 Washington Post/ABC News poll and a 2009 Quinnipiac University poll, 57 percent of white evangelical Protestants are supportive of open service and 64 percent of white Catholics and 83 percent of Jewish individuals support repeal. These statistics show that not only a majority of the general American public and those of all political affiliations/views support open service, but so does a majority of individuals from the religious community.

Lastly, a 2010 poll from the Center for American Progress (CAP) shows that a majority of American voters support the repeal of DADT. This poll is the most extensive of a number of recent surveys tracking public opinions on this issue and undeniably shows that the American public has become increasingly supportive of open service. According to CAP, voters recognize as our country fights two different wars that it is critical for the military to make recruiting decisions based on a service member’s skills — not his or her sexual orientation. The CAP poll finds that a majority of likely voters support allowing openly lesbian and gay individuals to serve in the military. Furthermore, 54 percent of those surveyed support repealing the current ban on open service, with just 35 percent opposed to repeal. These numbers demonstrate a shift in public opinion on this issue since 1994, when polls showed that majorities of Americans opposed lesbians and gays serving in the military.

### **Support for “Don’t Ask, Don’t Tell” Repeal Among Active and Former Military is Increasing**

Support for repealing DADT is increasing among former members of the military as well as the general public. Veterans, especially younger veterans, are increasingly comfortable serving with lesbian and gay troops. A 2006 Zogby poll of soldiers returning from Iraq and Afghanistan found that 73 percent of soldiers reported being “comfortable ... in the presence of gays,” and 45 percent

said they suspect that they had already served or were currently serving with a lesbian or gay person in their unit. Only 37 percent opposed repealing the policy. Furthermore, a July 2008 Washington Post/ABC poll found that 50 percent of all veterans supported open service by lesbians and gays.

Numerous polls reinforce this generational shift. For example, a 2004 Annenberg Public Policy Center poll of adults who had served in active duty in the military and their family members showed that 42 percent of the military members surveyed said that lesbians and gays should be allowed to serve openly in the armed forces, while 50 percent said they should not. The poll further noted that while commissioned officers and their families opposed inclusion by 53 to 39 percent and non-commissioned officers opposed by a 57 to 35 percent margin, fully half of junior enlisted personnel supported open service by lesbians and gays.

This stands in stark contrast to the polls taken in the early 1990s. In the original 1993 hearings on this issue, Congress relied on polling information that stated that 78 percent of then-currently serving soldiers opposed allowing lesbian and gay people to serve openly. The poll also showed that 90 percent of soldiers were uncomfortable with the possibility of a lesbian or gay roommate. Clearly, opinion both inside and outside the military has changed on this issue.

#### **Repudiation of the "Don't Ask, Don't Tell" Law by Military Leaders and Former Supporters is Continually Growing**

Top military leaders support a review and repeal of DADT. Recently, Secretary of Defense Robert Gates and Chairman of the Joint Chiefs of Staff Admiral Michael Mullen told Congress that it is time to repeal DADT. Admiral Mullen eloquently expressed to this Committee that:

"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."

With a statement like this from the Chairman of the Joint Chiefs of Staff, it hard to understand how anyone can question if it is time for the military to repeal DADT.

In addition, General Colin Powell, former chairman of the Joint Chiefs of Staff; General John M. Shalikashvili, former chairman of the Joint Chiefs of Staff; former Vice President Dick Cheney; and retired General James Jones, defense secretary in the first Bush administration and President Obama's current national security adviser, have all indicated their support for repealing DADT. General Powell, General Shalikashvili and former Vice President Cheney were previous supporters of DADT. Additionally, former supporters of DADT, such as William Cohen, former secretary of defense, and Sam Nunn, former senator and chairman of the Senate Armed Services Committee, have admitted it is time for the law to be reviewed. It cannot be ignored that former supporters of DADT have come to understand that DADT is a failed and unnecessary law that must be reviewed and repealed.

In November 2008 a statement signed by 104 retired Generals and Admirals was released urging Congress to repeal DADT. The statement, first released with 28 signatories in November 2007, represents the largest number of military leaders to call for repeal to date. Clearly, support for

DADT is crumbling among the very people who implemented and enforce the policy.

#### **The Original Rationale Behind Enactment of DADT Does Not Hold Water**

When DADT was enacted, its proponents believed that open service hurts service member morale, good order and unit cohesion. However, since then, many of our troops have served side-by-side with openly lesbian and gay people, whether in missions with coalition forces from other countries, or with defense contractors who hire the best people for the job without regard to sexual orientation. At least 9 nations allowing open service have fought alongside American troops in Operation Iraqi Freedom. In addition, at least twelve nations allowing open service have fought alongside U.S. troops in Afghanistan during Operation Enduring Freedom. In none of these instances, has it been reported that the presence of openly lesbian or gay individuals hurt service member morale, good order or unit cohesion.

In addition, according to a 2010 report by the Williams Institute, there are approximately 66,000 lesbian and gay individuals currently serving in the military. A 2006 Zogby poll reports that of all service members who know that they have served with a lesbian or gay person, 72 percent of those persons reported that the presence of a lesbian or gay service member had no impact or a positive impact on overall unit morale. Clearly, lesbian and gay service members are currently serving in our forces, and knowledge of their presence has not hurt service member morale, good order or unit cohesion.

Lastly, we can look beyond our borders to see that other countries have successfully implemented a policy of open service. At least 28 countries, including Great Britain, Australia, Canada and Israel, already allow open service by lesbian and gay troops, and none reports morale or recruitment problems. Moreover, according to a 2010 report by the Palm Center, which is the largest ever study of lesbians and gays in foreign militaries, open service does not disrupt military effectiveness and foreign militaries that allow lesbians and gays to serve openly achieved success by implementing an inclusive policy quickly and under decisive leadership. Congress should take note of these conclusions and show leadership by repealing DADT now.

#### **The Time to Repeal “Don’t Ask, Don’t Tell” is Now**

It is increasingly clear that DADT is a failed law, and that the American public, service members and military leaders support open service and a repeal of DADT. At a time when military recruitment shortfalls force service members to complete multiple tours of duty, America should not be turning away qualified, patriotic volunteers simply because of their sexual orientation.

Countless lesbian and gay Americans have and will continue to serve with distinction in our military. The question is whether they will have to conceal their sexual orientation in order to do so. Our military leaders often say that our military is the most disciplined and professional in the world. Those who say that our service members do not have the ability to serve beside openly lesbian or gay service members do not give our military professionals enough credit. When DADT is repealed, our service members will do as they normally do when given a directive by their superiors – they will follow orders and continue their service.

Last week, Senator Joseph Lieberman introduced a bill in the Senate to repeal DADT. Representative Patrick Murphy is the lead sponsor of similar legislation in the House of Representatives. Since President Obama delivered his State of the Union in January, where he called for ending the ban on openly lesbian and gay Americans serving in the military, there has been a nearly unanimous and diverse group that has spoken out in support of doing away with the law.

We must repeal this discriminatory law now and ensure that the United States can recruit and retain the best and the brightest service members, regardless of sexual orientation. On February 2, 2010, before this Committee, Secretary Gates acknowledged that the question was not whether DADT should be repealed but how the Department of Defense might best prepare for the change. While the Department of Defense moves forward reviewing how best to implement repeal, I urge Congress to pass legislation this year that would put an end to this senseless and harmful ban. Thank you for the opportunity to submit this statement.

Statement of  
Servicemembers Legal Defense Network  
to  
The Armed Services Committee  
of  
The United States Senate

March 18, 2010

Servicemembers Legal Defense Network is pleased to submit this statement to the Committee as it considers repeal of the "Don't Ask, Don't Tell" law. SLDN is a non-profit organization that provides free legal services to military personnel affected by "Don't Ask, Don't Tell". Since 1993, we have responded to nearly 10,000 requests for legal assistance. We urge the Committee to move forward this year with legislation that repeals "Don't Ask, Don't Tell" and establishes a policy of non-discrimination in our armed services. After last month's commitments by the Secretary of Defense and the Chairman of the Joint Chiefs, we know the military will be ready for implementation when Congress has acted.

We strongly support the statements of Admiral Mullen and Secretary Gates to this Committee last month. As Admiral Mullen put it so well,

"My personal belief is that allowing homosexuals to serve openly would be the right thing to do. 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, it

comes down to integrity — theirs as individuals and ours as an institution.”

“Don’t Ask, Don’t Tell” is inconsistent with the core values of the armed forces, as well as with basic American principles of fairness and equality, and is also at odds with military readiness and hurts recruitment and retention. “Don’t Ask, Don’t Tell” should be stricken from the books without delay.

At this point, the question is not whether to repeal “Don’t Ask, Don’t Tell,” but how to implement that repeal. As we indicate below, implementation will not be difficult and will not raise the problems that some claim to be worried about.

Some opponents of repeal say that the subject is “controversial”. However, there is really little controversy among the American people about lesbian and gay service members. A CNN poll recently found that 69% of Americans think that people who are openly gay or lesbian should be allowed to serve in the military. ABC News/Washington Post put that number at 75% and also found that 77% of Independents and 64% of Republicans support open service. A poll last year showed that majorities of weekly churchgoers (60%) and conservatives (58%) want to see the end of “Don’t Ask, Don’t Tell”. We wish that issues of the economy, health care and climate change were this “controversial”.

Last month, General Colin Powell said, “Society is always reflected in the military. It’s where we get our soldiers from.” American society wants “Don’t Ask, Don’t Tell” repealed, and that desire is reflected in the views you heard from the leaders of our military. We urge the members of this Committee — and Congress as a whole — to

similarly reflect American society by repealing “Don’t Ask, Don’t Tell” and by doing so this year.

We have nothing to fear from repealing “Don’t Ask, Don’t Tell” and establishing a policy of open service. The experience of other militaries proves that. Countries with cultures much like ours — such as, Canada, the UK and Australia — have done so with, as Admiral Mullen testified, no ill effects on the morale and unit cohesion of their forces. In fact, more than two dozen countries, including Israel and most members of NATO, have eliminated the restrictions on gays and lesbians serving openly. Our troops have already served in “open service” environments when they are deployed with forces from these other countries, again, as Admiral Mullen reported, without any issues.

So the message from the American people and our military leaders is clear: “Don’t Ask, Don’t Tell” should be repealed. The only question remaining is how we do it. We are pleased that the Department of Defense and the armed services are taking the initiative to answer that question even before Congress has acted to repeal “Don’t Ask, Don’t Tell”. It is in the best traditions of the United States armed forces that they prepare, in advance, for what might be coming along.

Since Admiral Mullen and Secretary Gates stated their strong support of repeal last week, we have heard their opponents say that “Don’t Ask, Don’t Tell” is “working”. We aren’t sure exactly what they mean or how they can tell that this law “works”. What we do know that it is “working” to deprive our military of willing volunteers, to force the discharge of service members with critical skills, to require service members to live in

fear of being fired should the truth about who they are be discovered, and to cost the U.S. taxpayers and our armed services hundreds of millions of dollars. We urge the Committee to take the next step to stop the law from “working” in these ways.

We also hear that now is not the time to make this change, while the military is fighting two wars. Today’s situation makes it especially important to recruit and retain qualified young people. However, the Pentagon reports that 75% of young Americans are ineligible to serve in our military because of inadequate education, criminal records or weight problems. Conduct waivers have been given for recruits with records of bomb threats, sex crimes and negligent or vehicular homicide. And yet, smart, qualified, law-abiding and fit youths who want to serve are being excluded merely because of their sexual orientation.

Congress should not delay starting the process to repeal “Don’t Ask, Don’t Tell” until the planning efforts outlined by Secretary Gates are complete. There is no reason for Congress to await the outcome of this study working group, and we did not understand Secretary Gates and Admiral Mullen to be asking you to wait. We are confident that the services will be ready to march once Congress gives the order.

We ask this Committee to include the repeal of “Don’t Ask, Don’t Tell” and the establishment of a policy of open service in this year’s Department of Defense authorization bill. Passing legislation this year will ensure that the armed services have the authority in place to implement when they have completed their implementation plans.

This is a case in which Congress' failure to act would not merely mean delay. It would mean the continuation of a discredited policy which, as Admiral Mullen put it so well, "forces young men and women to lie about who they are in order to defend their fellow citizens." It would also deprive the military of the service of young men and women who want to serve their country at a time when that service is sorely needed.

We understand that the Department of Defense wants to fully examine and to think through all possible implementation issues, and we appreciate that thoroughness. After all the studies that have already been done, this should not be a massive undertaking. Allowing open service by gay service members is a relatively straightforward transition which will raise fewer issues than did integrating African Americans and expanding the role of women in the services.

This is, in part, because there are already tens of thousands of gay and lesbian service members in the U.S. military, serving side-by-side with their straight comrades, and there have been for years, as Admiral Mullen testified. There is no big issue, for example, about where gay and lesbian service members will bunk and shower after "Don't Ask, Don't Tell" is repealed — they will bunk and shower exactly where they bunk and shower today.

In the post-repeal armed services, the only thing that will matter is what a service member does, not what demographic group he or she is a member of. Today, the rules don't differentiate among service members based on their race or gender. After repeal, they won't differentiate based on sexual orientation either. The rules will regulate conduct and be the same for everyone.

Other issues that have been raised by supporters of the status quo are, likewise, non-issues. There is no "affirmative action" requirement in S. 3065 or H.R. 1283, and we would not expect one in repeal language in the Defense authorization bill. Nor would those bills mandate changes to benefit programs or base housing rules. Repeal will require no changes to the Uniform Code of Military Justice.

There are changes that will be required, of course. Some existing policies will have to be repealed or revised and new policies formulated. Personnel throughout the services will have to be trained, just as training was needed when the military ended segregation in the ranks. Leadership from the senior enlisted and the officers corps will be key. None of this will take very long to accomplish. Last year, SLDN provided to the Department of Defense its analysis of what will need to be done to implement open service. A copy of that document is submitted with this statement.

Last month, Secretary Gates told the Committee that he has instructed the Department to review existing regulations and to recommend changes would enforce the existing law in a fairer manner. Of course, we would prefer that "Don't Ask, Don't Tell" were off the books immediately, but there are a number of changes that the Secretary may make to the way "Don't Ask, Don't Tell" is implemented that can lessen its negative effects. Last July, SLDN made a number of suggestions to Secretary Gates as to how he could modify these rules to do exactly that; a copy of that letter is attached. Secretary Gates testified last month,

"We can raise the level of the officer who is authorized to initiate an inquiry. We can raise the level of the officer who conducts the inquiry. We can raise the bar on what constitutes credible information to initiate

an inquiry. We can raise the bar on what constitutes a reliable person on whose word an inquiry can be initiated.”

All these changes would be legal, appropriate and beneficial, as would the ones in SLDN's letter, and we urge the Committee to encourage the Secretary to adopt all these proposals.

In closing, we urge the Committee to act on repeal this year. Secretary Gates said that the study working group will “take the better part of the year to accomplish the task.” S. 3065 accommodates that process and at the same time provides for full repeal.



December 14, 2009

Jeh C. Johnson, Esq.  
General Counsel  
Department of Defense  
1400 Defense Pentagon  
Washington, DC 20301-1400

Dear Mr. Johnson:

As we discussed, I am enclosing a memo prepared by SLDN staff that gives a high-level overview of what the armed services will need to do to implement H.R. 1283 and its policy of open service and non-discrimination. It also flags a few points that have been raised by opponents of the legislation and explains that they pose little or no problem for the implementation of the new policy.

We will be continuing to work to flesh out a more comprehensive implementation plan, and would be happy to consult with members of your staff or others in the Department who might be looking at implementation and these questions.

Sincerely,

Aubrey Sarvis  
Executive Director  
Servicemembers Legal Defense Network

### Implementation of Open Service

The United States military knows how to adapt to change and has been doing so successfully for more than 200 years. Allowing open service by gay<sup>1</sup> service members is a relatively straightforward transition. It will raise fewer issues, for example, than did integrating African Americans and expanding the role of women in the services.

This is, in part, because there are already tens of thousands of gay service members in the U.S. armed services — and there have been for years. These service members are not in separate units, as African Americans were before President Truman's integration order, or in separate quarters or restricted to certain Military Occupational Specialties. Surveys show that straight service members are well aware that there are gays in their units, and these service members have been working with and fighting alongside their gay peers with no particular problem. Open service will not change any of that.

U.S. troops have successfully worked with and taken orders from openly gay foreign service members in integrated multinational units under the auspices of NATO, the United Nations and other multinational organizations. There have been no indications of any disruptions or any detriment to unit cohesion as a result.

The military, of course, is a conservative environment. Many gay service members can be expected to continue to keep their sexual orientation private even after open service is permitted, as some of their civilian colleagues do in the more open non-military workplaces in the U.S.

Our British, Canadian and Australian allies have reported that their lifting of their bans on gay military service were “non-events.” We should expect the same in the U.S.

That said, there are steps that will have to be taken and changes that will have to be made to implement open service.

#### 1. Rules and Regulations

After the Military Readiness Enhancement Act is enacted, a wide variety of formal armed services documents will have to be updated to conform to the new law. This will include documents issued both by the Department of Defense and by each branch of the armed services. Changes will be required in a variety of instructions, directives, manuals, secretarial memoranda, local instructions, rules and regulations to reflect both open service (the end of the current “homosexual conduct policy”) and extension of the non-discrimination policy to include sexual orientation.

Provisions that implement 10 U.S.C. § 654 (“Don’t Ask, Don’t Tell”) will have to be canceled or withdrawn. These include provisions of Department of Defense Instructions 1332.14 (*Enlisted Administrative Separations*), 1332.26 (*Qualification Standards for Enlistment, Appointment, and Induction*) and 1332.30 (*Separation of Regular and Reserve*

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<sup>1</sup> For convenience in this paper, “gay” includes lesbians and bisexuals.

*Commissioned Officers*). Each of the services implemented these Instructions in its own way in its own personnel manuals and directives,<sup>2</sup> and lawyers in each of the services can facilitate the process of identifying the provisions that need to be changed. This is relatively direct and straightforward.

Similarly direct and straightforward, the non-discrimination rules and Equal Opportunity policies of each service<sup>3</sup> will have to be amended to include sexual orientation as a protected status. These EO policies already provide mechanisms for reporting and resolving complaints of harassment and/or discrimination.

Other rules will have to be reviewed to make sure that they are “sexual-orientation-neutral” and apply the same standard of conduct to all service members. The acceptability and appropriateness of specific conduct will be judged by a single standard, regardless of the sexual orientation or gender of the individuals involved. Therefore, the rules that apply to heterosexual conduct will apply to same-sex conduct as well. This will include rules relating to relations among military personnel, relations with civilians, relations on and off base, displays of affection etc. This is more complicated than simply eliminating “Don’t Ask, Don’t Tell” and instituting non-discrimination, but it can be accomplished in a relatively short period of time. SLDN would be happy to assist in identifying the needed changes.

Finally, other DoD and service publications refer to homosexual conduct. These would have to be reviewed to determine whether the references are still appropriate.

## 2. Establishment of the New Policy

The armed services will have to communicate the new open service and non-discrimination policy throughout the ranks worldwide. The new policy statement should be short and direct — stated in affirmative, simple, non-legalistic terms that are easily understood.

The new policy should apply a single standard of conduct to all personnel and relating to all personnel, regardless of their sexual orientation. The U.S. military might consider adopting a broad conduct policy statement like the British Armed Forces Code of Social Conduct, which was drafted shortly after that military’s homosexual ban was ended. A copy is attached to this paper.<sup>4</sup>

<sup>2</sup> For example, AR 635-200, *Personnel Separations: Active Duty Enlisted Separations*; AFI 36-3208, *Administrative Separation of Airman*; AFI 36-3206, *Administrative Discharge Procedures for Commissioned Officers*; MILPERSMAN 1910.148, CH-23, *Separation by Reason of Homosexual Conduct*, *Military Personnel Manual*; MARCORSEPMAN (MCO P1900.16 E) § 6207, *Marine Corps Separation and Retirement Manual* ch. 4, § 1; *Coast Guard Personnel Manual*, Ch 12.E, *Homosexual Conduct*, COMDTINST M1000.6A; AR 600-20, Ch. 4-19; AR 635-200, Ch. 15.

<sup>3</sup> E.g., AFI 36-2706, *Military Equal Opportunity (MEO) Program*; AR 600-20; SECNAV INSTRUCTION 5350.16A.

<sup>4</sup> Documents from the implementation of the policy in the British armed services are available in various places online, such as <http://www.mod.uk/DefenceInternet/AboutDefence/>

It will be important to explain that open service is affirmatively good for the armed forces — that it is not a bad policy imposed by Congress or the Commander-in-Chief. It will also be important to show how the new policy fits squarely within the creed and values of each service, to fit these policies, for example, into the Army's Soldier's Creed and the Core Values of the Navy.

All commanders, junior and senior, must visibly and vocally support and reflect the new policy. Commanders and senior enlisted personnel must understand that they will be evaluated on how they and those in their command carry out the new policy.

Finally, the military should develop procedures to monitor and evaluate compliance with the new policy. It should survey officers' and enlisted personnel's knowledge and understanding of the policy, their attitudes toward it and their experiences with it. It might also consider tracking the number of openly gay personnel serving and incidents of anti-gay harassment and violence.

### 3. Training and Education

The new open service and non-discrimination policy will not require extensive changes to existing training materials. Training materials already in use include instruction prohibiting harassment on the basis of sexual orientation. Training on issues relating to the presence of openly gay service members can readily be incorporated into existing training courses on harassment, discrimination and diversity. Sexual orientation will be discussed along with issues of gender, religion, ethnicity etc.<sup>5</sup>

The armed services know how to efficiently train large numbers of people and to disseminate information throughout the ranks. There is recruit training and officer candidate training, training at established intervals during an individual's service and upon reenlistment, training incorporated into the common task and common skills programs of the services, and training on an ad hoc basis as a need arises.

Leadership is the key to the success of the change in the law. Service-wide training of unit commanders and senior enlisted personnel will be a priority. As indicated above, these men and women must be instructed that they will be evaluated on how they and those in their command carry out the new policy. This training should provide them with the knowledge and skills needed to anticipate, identify and solve implementation challenges before they become problems. It should also provide a mechanism to report implementation issues and the steps that are taken to resolve them.

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CorporatePublications/PersonnelPublications/EqualityAndDiversity/LGBT/ and http://www.proud2serve.net/military/-militarydocuments.htm.

<sup>5</sup> The U.S. military could examine and adopt or modify training curricula developed by our British, Australian and Canadian allies when they removed their bans on open service.

#### 4. Non-Issues

Implementation issues raised by opponents of open service are, in reality, not issues at all.

**Affirmative Action.** H.R. 1283 does not create an “affirmative action” requirement in recruiting or promotions to compensate for past discrimination.

**Sodomy.** H.R. 1283 will not require any changes in the military’s criminal statutes, criminal procedures and disciplinary codes as contained in the Uniform Code of Military Justice and its implementing regulations. Article 125 of the UCMJ, that criminalizes sodomy, already applies equally to straight and gay service members. *United States v. Marcum*, 60 M.J. 198 (C.A.A.F. 2004), limited the application of Article 125, and the Cox Commission has recommended its repeal.

**Housing.** Gay service members are already integrated in every branch of the military and are currently sharing barracks and berthing areas with their straight peers (including on submarines) without reported problems. In short, nothing needs to be done to implement open service.

**Benefits.** H.R. 1283 does not require that gay couples who are in state-recognized marriages, civil unions or domestic partnerships receive the same benefits (retirement, base housing etc.) as married straight couples.

**Transgender Service Members.** “Don’t Ask, Don’t Tell” does not address military service by transgender persons. Therefore, the repeal of the policy won’t either.

**Showers.** We understand that, in almost all circumstances, modern billeting in all the services provides for individual showers and that there are individual showers on board all naval vessels. In areas overseas, including Iraq and Afghanistan, there are almost always individual showers. Even forward deployed troops, when they are fortunate enough to be able to have showers at all, are usually provided individual showers. It is clear that as newer facilities are constructed, open showers will be completely eliminated. Rules exist today that cover inappropriate conduct in showers (and elsewhere). Where there are open showers, those few service members who might be uncomfortable could avoid showering with gay troops. Of course, under “Don’t Ask, Don’t Tell,” these service members are already showering with gay service members— but some of them may not know who they are.

### British Armed Forces Code of Social Conduct

1. This Code of Social Conduct explains the Armed Forces' revised policy on personal relationships involving Service personnel. It applies to all members of the Armed Forces regardless of their gender, sexual orientation, rank or status. The provisions apply equally to members of the Regular and the Reserve Forces.

2. In the area of personal relationships, the overriding operational imperative to sustain team cohesion and to maintain trust and loyalty between commanders and those they command imposes a need for standards of social behaviour which are more demanding than those required by society at large. Such demands are equally necessary during peacetime and on operations. Examples of behaviour which can undermine such trust and cohesion, and therefore damage the morale or discipline of a unit (and hence its operational effectiveness) include: unwelcome sexual attention in the form of physical or verbal conduct; over-familiarity with the spouses or partners of other Service personnel; displays of affection which might cause offence to others; behaviour which damages or hazards the marriage or personal relationships of Service personnel or civilian colleagues within the wider defence community; and taking sexual advantage of subordinates. It is important to acknowledge in the tightly knit military community a need for mutual respect and a requirement to avoid conduct which offends others. Each case will be judged on its merits.

3. It is not practicable to list every type of conduct that may constitute social misbehaviour. The seriousness with which misconduct will be regarded will depend on the individual circumstances and the potential for adversely affecting operational effectiveness. Nevertheless, misconduct involving abuse of position, trust or rank, or taking advantage of an individual's separation, will be viewed as being particularly serious.

4. Unacceptable social conduct requires prompt and positive action to prevent damage. Timely advice and informal action can often prevent a situation developing to the point where it could impair the effectiveness of a Service unit. However, if the misconduct is particularly serious, it may be appropriate to proceed directly to formal administrative or disciplinary action. Such action is always to be proportionate to the seriousness of the misconduct. It may constitute a formal warning, official censure, the posting of one or more of the parties involved or disciplinary action. In particularly serious cases, or where an individual persists with, or has a history of acts of social misconduct, formal disciplinary or administrative action may be taken, which might lead to termination of service.

5. **The Service Test.** When considering possible cases of social misconduct, and in determining whether the Service has a duty to intervene in the personal lives of its personnel, Commanding Officers at every level must consider each case against the following Service Test:

“Have the actions or behaviour of an individual adversely impacted or are they likely to impact on the efficiency or operational effectiveness of the Service?”

In assessing whether to take action, Commanding Officers will consider a series of key criteria. This will establish the seriousness of the misconduct and its impact on operational effectiveness and thus the appropriate and proportionate level of sanction.



July 7, 2009

The Honorable Robert M. Gates  
 Secretary of Defense  
 1400 Defense Pentagon  
 Washington, DC 20301-1400

Dear Secretary Gates:

I am writing on behalf of Servicemembers Legal Defense Network to follow up on your comments last week concerning the way the "Don't Ask, Don't Tell" law has been implemented by the armed services. SLDN is a non-profit organization that provides free legal services to military personnel affected by "Don't Ask, Don't Tell." Since 1993, we have responded to more than 9,000 requests for legal assistance.

SLDN advocates the repeal of "Don't Ask, Don't Tell." While Congress is considering repeal, we have urged that legislation be passed stopping investigations of possible "Don't Ask, Don't Tell" violations. In particular, we propose that the DOD authorization bill include the following provision:

Directs the Secretary of Defense to instruct the Secretaries of each of the armed services that there may be no investigation of or inquiry into, or any administrative action relating to, conduct described in 10 U.S.C. § 654(b), "Policy concerning homosexuality in the armed forces," until the end of the 111th Congress; provided that, this shall not limit the authority of the Secretaries of the armed services with respect to conduct that would violate the Uniform Code of Military Justice.

We hope that you will consider this proposal and that you will be able to support it.

In the meantime, we would support any measures that would make the application of "Don't Ask, Don't Tell" less draconian. We believe that you have flexibility in the way to apply "Don't Ask, Don't Tell" and that you can exercise this flexibility immediately. In particular, you can instruct the services when it is permissible to initiate an inquiry or investigation under that law, that

1. To be sufficient to support the initiation of an inquiry into a possible violation of "Don't Ask, Don't Tell," the source of the allegation must be another service member. Information from a civilian is not sufficient.
2. An anonymous tip is not a sufficient basis to start an inquiry into a possible violation of "Don't Ask, Don't Tell."
3. Hearsay cannot support the initiation of an inquiry; the allegation must be based on personal knowledge.
4. The alleged homosexual conduct must have occurred after the service member joined the armed forces.

5. Statements made to chaplains, doctors, psychologists and other health professionals cannot be a basis of an inquiry into a possible violation of "Don't Ask, Don't Tell."

In addition, the Secretary should ensure that the court's decision in *Witt v. Dep't of Air Force*, 527 F.3d 806 (9th Cir. 2008), is faithfully implemented and that it is applied throughout the armed services. This decision requires the armed services to handle DADT cases in a way that ensures that service members' constitutional rights are not violated. In order to find a violation of the policy and to order discharge of a service member, the military must show that there is a justification for the application of the policy to that particular service member and that there is no less intrusive way to achieve the governmental interests recognized by the court. Although this decision technically applies only in the in the nine states and two territories that make up the Ninth Circuit, this standard should be applied uniformly throughout the military.

These changes would address the situations you referred to in your remarks as well as other cases in which there could be no possible justification for applying "Don't Ask, Don't Tell."

Members of SLDN's legal staff and I would be happy to meet with you and your legal advisors to discuss these proposals.

Sincerely,



Aubrey Sarvis  
Executive Director  
Servicemembers Legal Defense Network

## APPENDIX B



The American Legion  
February 4, 2010

The American Legion's National Executive Committee passed a resolution last October supporting a continuation of DoD's "Don't Ask, Don't Tell" policy prohibiting open homosexuality in the U.S. Armed Forces. This week, as the issue was revisited by the White House and the Pentagon, American Legion National Commander Clarence Hill released message points to clarify the organization's position.

Among the key points behind the resolution passed last fall is that the timing is not right for such a change in policy.

"Now is not the time to engage in a social experiment that can disrupt and potentially have serious impact on the conduct of forces engaged in combat," according to the statement from the national commander. "The American Legion recognizes that the U.S. military is in the highest state of op tempo short of that experienced in World War II and as a result there is enormous stress upon the troops in the Armed Forces. Now is the time to support the existing policy."

Adm. Mike Mullen, chairman of the Joint Chiefs of Staff, announced this week that DoD would conduct a study to see how the ban can be repealed. President Obama said in his Jan. 27 State of the Union Address that he "will work with Congress and our military to finally repeal the law that denies gay Americans the right to serve the country they love because of who they are."

The American Legion statement this week says the organization will "keep an open mind" to findings of military studies on the issue. It also points out that The American Legion has no position on the compatibility of homosexuality and military service.

Following is the resolution passed at the Fall Meetings of the NEC:



**NATIONAL EXECUTIVE COMMITTEE  
OF THE AMERICAN LEGION  
INDIANAPOLIS, INDIANA  
October 14-15, 2009**

Resolution No. 34: The American Legion Supports Department Of Defense "Don't Ask; Don't Tell" Policy

Origin: National Security Commission  
Submitted by: National Security Commission

WHEREAS, The American Legion is an organization of wartime veterans created by an act of the United States Congress in 1919; and

WHEREAS, The Department of Defense establishes fitness for duty criteria and standards of conduct consistent with the Uniform Code of Military Justice; and

WHEREAS, The Department of Defense's current standards and directives have produced one of the most dominant military forces in history; now, therefore, be it

RESOLVED, By the National Executive Committee of The American Legion in regular meeting assembled in Indianapolis, Indiana, on October 14-15, 2009, That The American Legion fully supports the Department of Defense's current personnel policy of "Don't Ask; Don't Tell."



Resolution No. 426

Oppose All Efforts To Repeal The 1993 Law  
Banning Homosexuals From Serving In The Armed Forces

WHEREAS, in 1993 Congress passed Public Law 103-160 (Section 654, U.S. Code Title 10) that sets policy and clearly excludes homosexuals from serving in the armed forces of the United States; and

WHEREAS, the Veterans of Foreign Wars of the United States has annually adopted a resolution from 1983 through 2006 opposing homosexuals from serving in the military; and

WHEREAS, 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; and

WHEREAS, success in combat requires military units that are characterized by high morale, good order and discipline, and unit cohesion; and

WHEREAS, military life is fundamentally different from civilian life in that the military society is characterized by its own laws, rules, customs, and traditions, including numerous restrictions on personal behavior, that would not be acceptable in civilian society; and

WHEREAS, the standards of conduct for members of the armed forces regulate a member's life 24 hours a day, whether the member is on base or off base, and whether the member is on duty or off duty ; and

WHEREAS, recent polls reveal that 58% of active duty members oppose repeal of the 1993 law that bans homosexuals from service in the military, 10% would not reenlist, and 14% would consider not reenlisting if the law is repealed; and

WHEREAS, this exodus of military members would put a great strain on the all volunteer force in the areas of retention and recruiting during a time when the U.S. is trying to increase the personnel strength of the Army and Marine Corps; and

WHEREAS, the current Department of Defense “don’t ask, don’t tell” policy is inconsistent with the public law because it incorrectly suggests that homosexual orientation is not a bar to military service, and that homosexuals may serve in the military as long as they do not engage in homosexual conduct; now, therefore

BE IT RESOLVED, by the Veterans of Foreign Wars of the United States, that we strongly oppose all efforts to repeal Public Law 103-160 (Section 654, U.S. Code Title 10), which bans homosexuals from serving in the U.S. Armed Forces; and

BE IT FURTHER RESOLVED, that we urge the Department of Defense to review the current, “don’t ask, don’t tell” policy and replace it with a policy more consistent

[Whereupon, at 12:11 p.m., the committee adjourned.]

