

FOIA MARKER

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Bell, Robert G.

From: Sestak, Joseph A.
To: Bell, Robert G.
Cc: /R, Record at A1
Subject: HIV
Date: Friday, May 03, 1996 5:31PM

Bob,

As you remember if the HIV provision had not been repealed, VA disability regulations which would have included 30% disability for HIV positive personnel would have been issued. Those regulations are now about to be issued -- minus the HIV disability section. However, in view of the possible inclusion of Dornan's new HIV provision, OMB has asked VA to hold off issuing the regulations till the smoke clears. The reason is, you might remember, that this particular section of VA regulations is not due to come up for review for another few years; even when it does, it takes about a year to go through the review process (which, by law, includes public vetting). In short, it was fortuitous that this particular section of VA regulations was just completing its review when the DoD Authorization Bill was passed; now the regulations (minus the HIV disability section) are in "limbo" pending some determination of how the HIV provision will turn out this time (or at least VA has said they will hold off on issuing the regulations, although I can't imagine holding it captive forever). vr, Joe

THURSDAY, April 25, 1996

WASHINGTON TIMES

April 25, 1996

Pg. 4

Military dismissal for HIV gets ax

Conferees rescind Defense act order

By Joyce Price
THE WASHINGTON TIMES

House and Senate budget negotiators yesterday agreed to rescind legislation requiring the discharge of military personnel infected with the AIDS virus.

"We have succeeded in repealing that regulation relating to HIV in the military," said Sen. Mark O. Hatfield, chairman of the Senate Appropriations Committee, who had sponsored the repeal that passed the Senate last month as part of an omnibus spending bill.

But for the repeal to take effect, House Republicans had to agree to it in conference. Mr. Hatfield said the repeal will be included in an omnibus spending bill and will take effect when the entire package is signed into law by President Clinton.

Rep. Robert K. Dornan, California Republican and chairman of the House National Security subcommittee on military personnel,

sponsored the mandatory-discharge directive that was included in the 1996 Defense Authorization Act. Mr. Clinton reluctantly signed it into law this year.

Mr. Dornan expressed outrage at the conferees' action, which he blamed on the "weak" Republican leadership's "knuckling under" to a "triple draft-dodger," meaning Mr. Clinton.

When the president signed the bill Feb. 10, he urged Americans to lobby Congress for a repeal of the Dornan provision.

"They are canceling out U.S. law," Mr. Dornan said of the House and Senate budget negotiators. The law they are canceling requires the discharge of more than 1,000 HIV-infected service members in six months.

Mr. Dornan's subcommittee will mark up the 1997 Defense authorization bill today, and he said he will include the regulation in that measure.

He said he also will introduce language to the bill that would kill the Clinton administration's "don't ask, don't tell" policy on homosexuals in the military. Mr. Dornan said he is seeking to replace that policy with the Pentagon's former policy that allowed military officials to question personnel about their sexual orientation and force out those who would not promise to cease homosexual practices.

Proponents of the law now in effect say it does away with a double standard that has HIV personnel treated as a protected class.

HIV-positive service members on active duty are classified as permanently non-deployable and are relegated to desk jobs. But under the law of the past decade,

they could not be forced out of the service until they developed AIDS.

In contrast, members of the armed forces who suffered cancer, diabetes or other ailments that make them "permanent non-deployable" can be forced out of the service even if they still do their jobs.

Mr. Dornan said he was told by GOP leaders that the repeal of his provision is part of a "trade-off" with Democrats who agreed to allow two pro-life provisions in the funding bill.

One provision, he said, would not force abortion training on medical students in obstetrics-gynecology who have religious or other objections to abortion. Medical schools could allow such students to refrain from such training and not face a loss of federal funds.

The other pro-life provision "will give asylum to any woman who flees China because of its forced abortion policies," Mr. Dornan said.

He said the House leadership has promised to support and "whip" his HIV discharge provision in the 1997 defense authorization measure, but he is not impressed.

Kim Mills, a spokeswoman for the Human Rights Campaign, the nation's largest homosexual-rights group, said her organization lobbied hard to "see that the Senate language was preserved" in conference.

"The AIDS Action Council was working the issue as well," she said. "We feel Bob Dornan lost today, and he lost big. ... His measure was malicious and unnecessary."

DEFENSE DAILY

April 25, 1996

Pg. 145

BMDO NEEDS ADDITIONAL \$2.2 BILLION TO CARRY OUT CONGRESSIONAL PLAN

The Ballistic Missile Defense Organization has formally notified Congress it needs an additional \$2.2 billion over its long term budget, including \$935 million in FY '97, to carry out ambitious plan for deploying theater missile defense systems, according to a BMDO document.

In legislation passed into law last year, Congress directed the Pentagon to deploy the advanced Patriot, PAC-3, by FY '98, the Theater High Altitude Area Defense System (THAAD) by FY '00, Navy lower tier by FY '99 and upper tier by FY '01.

BMDO believes those dates are unattainable.

"The facts of life are that both time and programs have moved on since the passage of the Act and some dates were extremely ambitious," the document says.

The document says the earliest THAAD could be fielded is in 2002 no matter how much

THURSDAY, April 25, 1996

funding is directed to the program.

To meet that 2002 timetable, BMDO says that in FY '97 THAAD needs an additional \$110 million. For Navy upper tier to be fielded in 2005, its earliest possible date, according to BMDO, it needs an additional \$242 million in FY '97. In addition, the Joint Theater Missile Defense Element needs \$75 million in FY '97.

Over the long term, from FY '98 to FY '01, upper tier needs an additional \$654 million and THAAD, \$878 million. To deploy a National Missile Defense system by 2003, the program would need a boost of \$350 million in FY '97. It would also need an additional \$100 million in FY '98 and FY '99.

Advanced Technology programs, which have taken disproportionate hits with the reductions to the missile defense budget in recent years, need a \$158 million increase. BMDO wants this funding spread across several programs, including directed energy programs (\$71 million), atmospheric interceptor technology (\$25 million), and critical ballistic missile defense technology base (\$62 million).

BMDO also would recommend an increase of \$137 million to the Air Force's Space and Missile Tracking System.

The BMDO document says that the PAC-3, and the Navy's lower tier defense system are "proceeding as quickly as possible" and do not need additional funding.

WASHINGTON TIMES

April 25, 1996

Pg. 15

Chechen leader buried; heir pledges to carry on

By Philippa Fletcher
REUTERS NEWS AGENCY

SHALAZHI, Russia — Chechen rebel leader Dzhokhar Dudayev yesterday was buried secretly after being killed in a rocket attack. His chosen successor vowed to fight on for independence from Russia.

Mr. Dudayev's government said he was killed by a weekend rocket attack at the village of Gekhi-Chu, about 20 miles southwest of Grozny, as he stood in an open field speaking on a satellite telephone. He was laid to rest in an unspecified village cemetery.

Russian news agencies said the burial site was somewhere around Shalazhi, about 22 miles southwest of the regional capital, Grozny. But villagers here appeared to be relying mostly on hearsay.

Many people in the region were shocked by the reports of Mr. Dudayev's death. Grief-stricken women wept as villages observed a three-day mourning period called by the separatists.

Others refused to believe he had been killed. "That's what they say. We don't believe it," shouted a boy on a bicycle on the road from Grozny.

But people in Shalazhi said hundreds of Chechens visited the village yesterday to pay their re-

spects. Some villagers went about their normal business. Others prayed.

Russia's NTV independent television quoted senior rebel field commander Akhmed Zakayev as saying the burial took place Tuesday, but he said the location was being kept secret.

Mr. Zakayev said there was a question mark now over peace prospects. "Dudayev could have found some compromise linked with negotiations, but today conditions will be dictated by the Chechen people," he said.

Asked what these conditions might be, he said: "Full independence and a complete withdrawal of Russian troops."

Chechnya's new separatist leader, Zelimkhan Yandarbiyev, was also quoted as saying the fight for independence would go on.

"The tragic death of the first president of Chechnya has not broken the Chechen people, and it is ready to continue ... its struggle for independence," he said.

NTV showed footage from the village where two explosions were heard Sunday evening. The tangled wreckage of a car lay by a huge crater and scraps of clothing, said to be from Mr. Dudayev's uniform, were still scattered around.

Analysts were divided on

whether the death of the 52-year-old former Soviet air force general will help President Boris Yeltsin achieve a peaceful settlement — which would help his re-election in Russia's June 16 poll — or steel his followers to fight on, perhaps launching revenge attacks.

The appointment of Mr. Yandarbiyev, 44, a literary scholar who had been vice president of the self-proclaimed Republic of Ichkeria, might make peace as elusive as ever, analysts said.

INSIDE THE PENTAGON

April 25, 1996

Pg. 17

PEP PILLS

Flintstones they're not. Harold Smith, the Pentagon's nuclear/biological/chemical defense programs czar, is proud of the work DOD has done in helping convert a biological weapons production plant in Kazakhstan into a vitamin factory. But not enough to down one of the new pills himself, he indicated at an April 23 breakfast with defense reporters.

"In Kazakhstan, we have awarded a contract at least a year ago to convert a former BW production plant to vitamins. I'm not sure any of you want to buy these vitamins," he told reporters, scoring a mass chortle.

"Nonetheless," Smith continued, waxing more philosophic on the merits of the Nunn-Lugar Cooperative Threat Reduction program, "vitamins and eventually pharmaceuticals are extremely needed certainly in Kazakhstan and in Russia."

First Computer Wiretap Locates Hacker

WASHINGTON, March 30 (AP) — Using evidence from the first court-ordered wiretap on a computer network, Federal officials have charged an Argentine student with hacking his way into United States military computers.

The officials said the student had obtained access to information about satellites, radiation and engineering, but he is not accused of stealing vital national secrets. Investigators cited the case as an example of their ability to track a computer criminal, with court permission, while preserving the privacy of other computer users.

Attorney General Janet Reno said at her weekly news conference on Friday that the student, Julio Cesar Ardita, 21, was accused of carrying out illegal computer entries from Buenos Aires, where he lives.

Mr. Ardita, the son of a former Argentine military officer, is charged with three felonies related to illegal computer entry, but the charges are not for extraditable offenses under the American-Argentine treaties.

Donald K. Stern, the United States Attorney in Boston, said that the Argentine authorities had opened their own investigation and confiscated Mr. Ardita's computer and that they might bring charges against him.

Ms. Reno and Mr. Stern declined to ascribe a motive to the suspect, but

they made it clear that although Mr. Ardita has been charged with gaining illegal access to confidential and sensitive information, he has not been charged with getting classified information affecting national security.

Ms. Reno said prosecutors had been careful to make sure that their wiretap did not collect communications by people not related to the case. "This is an example of how the Fourth Amendment and a court order can be used to protect rights while adapting to modern technology," she said.

The Government contends that, beginning last summer, Mr. Ardita broke into the computer of Harvard University's Faculty of Arts and Sciences on the Internet. Then he entered computers of the Defense Department, the Navy and the National Aeronautics and Space Administration that "contain files relating to research on state-of-the-art satellites, radiation and energy-related engineering," said an affidavit by Peter Garza, an agent with the Naval Criminal Investigative Service.

The Government said Mr. Ardita had hacked his way into computers at the Naval Command; the Control and Ocean Surveillance Center in San Diego; the Naval Research Laboratory in Washington; NASA's Jet Propulsion Laboratory in Pasadena,

Calif.; NASA's Ames Research Center at Moffett Field, Calif., and the Los Alamos National Laboratory in New Mexico. It said he had repeatedly failed in efforts to enter the Army Research Laboratory computer at Aberdeen, Md.

Stephen P. Heymann, a Federal prosecutor in Boston, said investigators had worked with Harvard to determine a method of tracking the suspect that would protect the privacy of legitimate users.

He said that the Harvard system had 16,500 accounts and 13,000 users and that about 60,000 E-mail messages each day moved in and out of the area where investigators were looking for the intruder.

Mr. Heymann said investigators had used a high-speed computer to check for 10 to 15 key words that matched the intruder's profile. If they were not sure if an electronic communication containing a key word was Mr. Ardita's, the investigators looked at 80 characters on either side of the key word to make that determination. Mr. Heymann said investigators believed that only twice had they read a complete message that was not Mr. Ardita's.

Mr. Heymann said it had cost more than \$100,000 just to investigate the intrusions at NASA's computers and to reconfigure them to block future illegal entries.

Hill negotiators put off decision on discharging soldiers with HIV

WASHINGTON
TIMES

March 30, 1996

Pg. 4

By Joyce Price
and Rowan Scarborough
THE WASHINGTON TIMES

House and Senate negotiators yesterday put off a final decision on a provision that would delay until next year the discharge of 1,050 HIV-positive military personnel.

Sen. Ted Stevens, Alaska Republican and chairman of the Senate Appropriations defense subcommittee, has proposed the compromise language in a pending omnibus spending bill. The Senate by voice vote amended the bill with language that would repeal a law that mandates the discharge within six months. House Republicans who wrote the directive are adamant that it must stay.

The Senate action would erase a provision of the 1996 defense authorization measure passed by the current Congress and reluctantly signed into law by President Clinton. Mr. Clinton and advocacy groups for those with HIV urged Americans to lobby Congress to repeal the provision.

"Senator Stevens proposed making the Senate amendment effective until January of next year to give the armed services time to determine how to administer the new policy," said Elizabeth Morra, House Appropriations Committee spokeswoman.

She said there is momentum within the conference to accept the Stevens language, but lawmakers decided they want direc-

tion from House Speaker Newt Gingrich, Georgia Republican, and Senate Majority Leader Bob Dole, Kansas Republican, before taking final action.

To date, the House leadership has declined to take a position on the issue.

Conferees will resume negotiations the week of April 15.

Proponents of the new law say it does away with a double standard that has HIV personnel treated as a protected class.

HIV-positive service members on active duty are classified as permanently non-deployable and are relegated to desk jobs. But under the law of the past decade, they could not be forced out of the service until they developed AIDS.

MONDAY, April 1, 1996

In contrast, members of the armed forces who suffered cancer, diabetes or other ailments that made them "permanent non-deployables" could be forced out of the service even if they could still do their jobs.

California Republican Rep.

Robert K. Dornan, chairman of the House National Security subcommittee on military personnel and sponsor of the act requiring the discharge of HIV-positive service members, called the Senate repeal a "cowardly act" that was "obvious kowtowing to the activist homo-

sexual agenda."

The White House has said that family medical benefits and financial support will be provided to those discharged if Congress refuses to repeal the new law or the law cannot be declared unconstitutional.

CHICAGO TRIBUNE

Mar. 31, 1996

Pg. 16

Another judge rules against military policy on homosexuals

ASSOCIATED PRESS

SAN FRANCISCO — A federal judge has ruled that the military's "don't ask, don't tell" policy violates the Constitution by discriminating against homosexuals, the second such ruling.

The discharge of a California Army National Guard officer, who disclosed his sexual orientation in a letter to his commanding officer, was ordered under a policy that "impermissibly relies on irrational prejudices against homosexuals as a group," U.S. District Judge Sandra Brown Armstrong said Friday.

The federal law and regulations "target and punish service members who simply acknowledge who they are," Armstrong said.

"This is impermissible under our Constitution."

She dismissed the government's argument that the policy was necessary to keep military units cohesive. Armstrong ordered the Guard to reinstate 1st Lt. Andrew Holmes, a Persian Gulf war veteran who went on active Guard duty in 1991.

Last year, a federal judge in New York blocked the discharge of six homosexuals who had challenged the policy.

Holmes said he was fighting for "tens of thousands of gay and lesbian service members who have served their country with courage and distinction, yet whom the government would willingly toss out because of its collective homophobia."

U.S. NEWS & WORLD REPORT

April 8, 1996

Pg. 16

WEAPONS TRANSFER?

U.S. officials have proposed an intriguing plan for providing weapons to Bosnia's Muslim-Croat federation: taking them from the rival Bosnian Serbs. In recent talks with Serbian President Slobodan Milosevic, American envoys argued that such a plan would help fulfill a key aim of the Clinton administration: strengthening the federation without adding to the number of weapons in the region. "You could take the Serbs down and build the Muslims up simultaneously," says one senior U.S. official. A straight transfer of weapons also could help circumvent a shortfall in funding for the arm-and-train effort. The Serbs, however, are hazy about giving up weapons that could later be used against them. "I think it will be a very difficult option to pursue," says the official.

DEFENSE NEWS

April 1-7, 1996

Pg. 2

U.S. House Panel OKs Export Control Rewrite

The House International Relations Committee late March 29 approved a rewrite of the U.S. Export Administration Act designed to loosen unilateral U.S. export controls. At the same time, the new export rules would tighten sanctions against countries not complying with multilateral regimes aimed at preventing nuclear, biological, chemical and missile proliferation. The bill is expected to be debated on the House floor in late April.

U.S. Military Opposes Executive Salary Limit

The Pentagon is opposing a congressional initiative to cap the compensation defense executives receive from government contracts.

Congress, in its 1996 defense spending bill, capped compensation at \$200,000. But in an appeal to the Office of Management and Budget (OMB), defense officials are seeking a way around this mandate. OMB has not yet responded to the request.

BOSTON GLOBE

March 29, 1996

Pg. 12

Arms sales top \$7b in Russia

MOSCOW — Russian arms exporters said yesterday that they had orders for arms deals for 1996 totaling more than twice the total worth of arms exports last year. "The portfolio of orders for 1996 exceeds \$7 billion," Alexander Kotelnik, general director of the state company Rosvooruzheniye, was quoted as saying by Interfax news agency. The total

worth of arms and other items produced by the military-industrial complex and exported by Rosvooruzheniye in 1995 was \$2.8 billion, Kotelnik said. The former Soviet Union exported arms worth an average \$14 billion a year — reaching a peak of more than \$20 billion in 1987 — until it collapsed in late 1991. Most sales were to its former allies in Eastern Europe and the Third World. Russia sells arms to 61 countries with India, China, Syria and Malaysia among its biggest clients. (Reuters)

BALTIMORE SUN

March 30, 1996

Pg. 2

President of The Citadel is resigning Aug. 31

CHARLOTTE, N.C. — Lt. Gen. Claudius Watts, the embattled president of The Citadel military academy, announced his resignation yesterday after seven years in charge. General Watts, who steered the all-male, state-financed school in Charleston, S.C.,

through a highly publicized sexual discrimination lawsuit, said he would leave Aug. 31 to spend more time with his family.

Shannon Faulkner challenged the liberal arts college's all-male tradition and won the right to attend classes and become its first female cadet last year. She dropped out after becoming sick from the physical regimen.

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Congress of the United States

House of Representatives



ROBERT K. DORNAN

March 20, 1996

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CONGRESSIONAL TASK FORCES:
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The Political General of the AIDS Lobby

FYI
Dear Colleague:

You would think that with all of his concerns around the world -- Haiti, Bosnia, China, the Middle East, etc. -- that Chairman of the Joint Chiefs of Staff John M. Shalikashvili might have more important things to do than to be Clinton's point man for the AIDS lobby regarding HIV/AIDS infected personnel in the military. (Actually, when you think about it, what other use does Clinton have for the military except as a social laboratory?) Amazingly though, General "Shali" seems eagerly fixated with his misplaced assignment.

In shilling for the AIDS lobby's Member of Congress (both Republican and Democrat), General Shali took the time and initiative recently to respond to my point by point "Dear Colleague" on the subject of the Dornan provision in the defense authorization bill to give honorable discharges and full medical benefits to HIV/AIDS infected military personnel. I thought you might like to know what he is spinning at the behest of Clinton and the AIDS lobby ... and then know the truth.

1.) General Shali writes that HIV/AIDS infected personnel are "considered fit for duty" and that there is "no prudent reason to separate and replace" them

Fact: Common sense dictates that "fit for duty" personnel would not be precluded from overseas assignments and/or combat ready duties. But HIV/AIDS infected personnel are precluded on both counts. They are not allowed to do *anything* portrayed in those gung-ho television ads about "be all that you can be." More importantly, these persons, if they are already overseas, are ordered home to the States immediately and are re-trained for a soft job (so taxpayers not only eat the cost of their original training and on-the-job experience, but also the cost to take someone else's job).

If these personnel are "fit for duty," then why not deploy them?

2.) General Shali writes that "there is no such prohibition" regarding HIV/AIDS infected personnel carrying a weapon, practicing at a pistol range, boarding an aircraft or a ship, in a submarine or tank, serving on medical teams, etc.

Fact: As just mentioned, the prohibitions are obvious. Forced reassignment, in and of itself, is a tell-tale sign that prohibitions exist. To explicitly regulate a prohibition subsumed by the greater act of reassignment would be gratuitous ... some things are self-evident and the

3.) General Shali writes that the pre-Doman policy was "a reasonable way to treat people without affecting readiness of the force."

Fact: Non-deployability affects readiness. Period. When everyone else packs up to deploy across the globe, and 1,049 persons do not, then readiness is affected. The Political General and the AIDS lobby crow about the valuable skills of these infected personnel ... which begs the question, won't the absence of such valuable personnel affect readiness? The General's team can't have it both ways -- either these valuable, highly trained personnel will be missed when their units are deployed or, on the other hand, their training is quite commonplace, wherein they won't be missed, and their duties will easily be assumed by others.

4.) General Shali writes that "HIV-positive personnel were not protected from the drawdown" (referring to Clinton's 700,000 service member reduction in force since he's been president) and "in the past 10 years (testing began in 1986), approximately 6,700 HIV-positive service members have been discharged."

Fact: Not one HIV/AIDS infected serviceman or woman was discharged because of the Clinton drawdown, unless full blown AIDS was apparent. Although these infected personnel may not have received a pointless "line-item" exemption from the drawdown, they obviously have been protected from non-voluntary discharge after being taken out of combat units ... otherwise, why all the fuss about the Doman provision?

5. General Shali writes that "not all military personnel are in 'combat-duty' positions" in an effort to persuade us that HIV/AIDS infected file clerks and motor pool drivers are as important as Delta Force commandos.

Fact: Deployability is the key to military readiness, not combat ready status. (Even a Politicized General surely hasn't forgotten this!) File clerks are still expected to routinely deploy overseas like other personnel. But HIV/AIDS infected file clerks must remain stateside or, if they are already overseas, return to the States. Two other points apply as well.

First, not all of these safely kept HIV/AIDS infected file clerks were trained to push pencils. Most were not. Most were trained for any duty but pencil-pushing. And second, even though there is no "otherwise qualified" regulation in the military for ill persons, there is in the private sector. The Political General has led us to believe that these personnel have nowhere to go. Not true. If an infected service member can push a pencil in the military, surely he or she can push a pencil in the private sector with the same ease (and with a plethora of legal protections). An honorable discharge and full medical benefits are a good start for the majority of dismissals ... and a bright opportunity for many who were removed from their highly technical jobs overseas only to be relegated to a cushy civilian style desk job in the States. In this light, returning to the private sector with an honorable discharge and full medical benefits is liberating.

If my colleagues, Mr. Torkildsen and Ms. Harman, want to ask the Political General some insightful questions, they might want to try these:

- A. How can a service member be "fit for duty" and yet remain permanently non-deployable?
- B. How can a service member be "fit for duty" and have an infectious, incurable venereal disease course through his or her body?
- C. If HIV/AIDS infected service members are "fit for duty," then why place limits on their assignments?
- D. Does "fit for duty" mean just anything you want it to mean?
- E. If Magic Johnson was playing basketball for the military, would he only be allowed to play home games?
- F. Would heavyweight Tommy Morrison be allowed to box for the Army because he doesn't manifest any outward symptoms of illness?
- G. Does the military regularly give honorable discharges and full medical benefits to service members discharged for violating the Uniform Code of Military Justice?
- H. Is HIV the only incurable disease to place a service member on non-deployable status?
- I. Is HIV the only irreversibly degenerative disease to place a service member on non-

personnel on active duty?

K. Has the Political General ever been lobbied by patrons of houses of prostitution to keep HIV/AIDS infected personnel on active duty?

L. Has the Political General ever been lobbied by homosexual groups or lawyers (or Clinton) to keep HIV/AIDS infected personnel on active duty? (Surprise!)

And finally,

M. Shali, aren't you tired yet of flaking for the radical social agenda of a triple draft-dodger pretending to "play army" at the expense of you and all the courageous servicemen and women in uniform today?

A handwritten signature in black ink, appearing to read "Bob". The signature is stylized with a large, sweeping 'B' and a trailing flourish.



CHAIRMAN OF THE JOINT CHIEFS OF STAFF

WASHINGTON, D.C. 20318-8999

18 March 1996

456-9190

The Honorable Floyd D. Spence
Chairman
Committee on National Security
House of Representatives
Washington, D.C. 20515-6035

Dear Mr. Chairman,

This letter responds to a 27 February letter from Representatives Torkildsen and Harman requesting information be sent to you clarifying policies that affect HIV-positive Service members. Enclosed is an information paper addressing some of the statements Representative Bob Dornan presented in his 14 February "Dear Colleague" letter.

If I may be of further assistance, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "John M. Shalikashvili", is written over the typed name and title.

JOHN M. SHALIKASHVILI
Chairman
of the Joint Chiefs of Staff

Enclosure

Copy to:

The Honorable Peter G. Torkildsen
The Honorable Jane Harman
The Honorable Robert Dornan

ENCLOSURE

INFORMATION PAPER

1. Purpose. To provide information concerning HIV-positive Service members.

2. Key Points

- Under current DOD policy, HIV-positive members are considered fit for duty except for some assignment restrictions.
 - As long as HIV-positive members perform required duties, the Department sees no prudent reason to separate and replace the Service members because of their antibody status.
 - DOD policy is to assign HIV-positive members within the United States, including Alaska, Hawaii, and Puerto Rico, due to the high priority assigned to the continued medical evaluation of these personnel.
 - ✓ The Department of Defense cannot comment on the statement that 191 countries will not allow HIV-positive members to serve on the countries' soil because that is not the basis for the Department's policy, nor is that issue tracked.
 - Personnel testing HIV-positive receive an initial medical evaluation to determine the status of their infection and fitness for continued service in the same manner as personnel with other progressive illnesses.
 - ✓ HIV-positive members receive a complete physical examination annually and a complete T-cell subset evaluation at least every 6 months.
 - Once symptoms of the disease are manifested, members diagnosed HIV-positive are referred to the Disability Evaluation System (DES). Members receive fitness determinations through the same process as all other members.
 - ✓ In addition to the above, HIV-positive individuals are subject to the same reenlistment eligibility criteria and disciplinary measures as all other Service members.
 - ✓ In past 10 years (testing began 1986), approximately 6,700 HIV-positive Service members have been discharged. A little over half were retired for a medical disability. The remainder left at the

Enclosure

end of term of service, were separated because of behavioral or performance problems, or separated for other reasons.

- Current policy on treatment of HIV-positive members is a reasonable way to treat people without affecting readiness of the force.
- Responses to specific comments:
 - Members are not allowed to carry a weapon or visit a pistol range.
 - ✓ There is no such prohibition.
 - Members are not allowed to serve on medical teams.
 - ✓ Although HIV-positive medical personnel are not allowed to perform invasive procedures, they are not totally restricted from serving on medical teams.
 - Members are not allowed to serve on board an aircraft or a ship.
 - ✓ There is no overall prohibition. Limitations on the assignment of HIV-positive personnel varies. The Secretaries of the Military Departments may limit assignment of HIV-positive personnel based on the nature and location of the duties to be performed.
 - Members are disallowed from doing anything that defines military life.
 - ✓ HIV-positive members are considered fit for duty, although they are assigned within the United States and assignments to some deployable units or positions are not available to them.
 - Members are exempt from jobs with heavy lifting.
 - ✓ There is no such prohibition.
 - Members are exempt from the Service Drawdown Programs.
 - ✓ HIV-positive personnel were not protected from the drawdown.
 - Noncombat assignability of HIV-positive personnel.
 - ✓ Not all military personnel are in "combat-duty" positions. There are many support and staff positions required to sustain "combat" troops.

Enclosure

- These people are ill and disabled.
 - ✓ Although infected with HIV, the individuals receive fitness determinations through the same process as all other members. Personnel determined fit for duty are completely capable of doing their jobs. Those determined not fit for duty are processed in the same manner as other personnel determined not fit for duty.
- If you become infected, sooner or later, you will die an HIV-related death. The same is not true of the others that are treated on a case-by-case basis.
 - ✓ Members with terminal illnesses are addressed on a case-by-case basis and not in a broad general category.
- In just the last 2 years, the military has discharged over 12,000 men and women for being overweight.
 - ✓ In the last 2 years, the Services have discharged approximately 8,900 personnel for being overweight. Overweight personnel are separated for a failure to meet standards. They are counseled and have multiple opportunities to meet standards. HIV-positive personnel are subject to the same weight and physical performance standards as other military personnel.
- President Clinton will now force the military and all America to ask HIV/AIDS infected personnel how they acquired the infection.
 - ✓ Federal law establishes significant restrictions on obtaining and using HIV-positive information.

WEDNESDAY, March 20, 1996

pressed by Sen. Hank Brown (R-Colo.), who chairs a Foreign Relations subcommittee that handles East Asian affairs. In a letter to President Clinton last week, Brown noted that the transfer was no longer legally blocked and said "Pakistan is an ally that has stood with the United States for many years. We owe them the return of their mon-

ey or the delivery of their equipment."

This view won over policymakers who became convinced, in the words of one official, that Pakistan would conclude "in some sense that we had given up on them, and had abandoned them," if the transfer did not proceed. The administration was also worried that anti-Western elements inside Pakistan

would depict any U.S. penalties as unwarranted discrimination.

"The basic issue is how we influence Pakistan," another senior official said. "Our strong view is that Pakistan is more likely to remain on a course that will serve American national interests if we remain engaged."

PHILADELPHIA INQUIRER

March 20, 1996

Pg. 7

Iraq has rebuilt a military that threatens the gulf, U.S. general says

By John Diamond
ASSOCIATED PRESS

WASHINGTON — Iraq has reestablished a strong, well-trained military that represents the most dangerous short-term threat in the Persian Gulf, a top U.S. general said yesterday.

Although Iraq has not mustered a force as large as the one that invaded Kuwait in 1990, it has modernized to a strength well beyond that of its neighbors, Gen. Binford Peay 3d told the Senate Armed Services Committee. Peay, chief of the U.S. Central Command, appeared with three other senior officers who urged lawmakers not to cut the defense force further or reduce overseas presence.

"What we have in Iraq is a downsized force significantly upgraded," Peay said, "weak in air, strong in army, that is significantly more capable than the other neighboring states are able to handle."

Before the Persian Gulf war, Saddam Hussein's military consisted of 51 divisions. Today, the Iraqi leader has 23 divisions, but they may be much more capable than those of six years ago.

"He's done a superb job of downsizing by consolidating forces and making his forces ready," Peay said.

Many of the top Iraqi military commanders who failed to stop the allied onslaught in 1991 have been replaced with a new generation of officers, many of whom got their training in the 1980s overseas — including in the United States, Peay said.

Although Iraq's air force, never strong, remains negligible, Peay said Iraq has completely reconstituted the air-defense system destroyed by U.S. air power in the gulf war.

Peay was joined by Gen. George Joulwan, the NATO military commander and chief of the U.S. European Command, Gen. John Sheehan, chief of the Atlantic Command, and Adm. James Perkins 3d, acting chief

of the Southern Command. These commanders, along with the chief of the Pacific Command, who testified last week, represent the so-called unified commands charged with fighting the country's wars in their respective geographic spheres.

As war-fighting commanders, the senior officers strongly oppose further cuts in the military. President Clinton's defense team has asked the Army to examine the possibility of cutting 20,000 soldiers out of the

active-duty Army, reducing the force from 495,000 to 475,000.

Sheehan, a four-star Marine general, said the military is shrinking to the point where too few mid-level officers are getting the opportunity to command troops in the field.

"While the force has shrunk by 36 percent, defense agencies and headquarters have grown exponentially," Sheehan said. "You need combat capability in the field to solve this nation's problems from the security perspective."

NEW YORK TIMES

March 20, 1996

Pg. D22

Senate Votes to Prevent Ouster Of H.I.V. Patients in Military

By JERRY GRAY

WASHINGTON, March 19 — The Senate voted without debate today to overturn a month-old law that requires the mandatory discharge of members of the armed forces who test positive for the virus that causes AIDS.

Senator Bob Dole, the majority leader and presumptive Republican Presidential nominee, agreed to the move after Senator William S. Cohen, Republican of Maine, and Senator Edward M. Kennedy, Democrat of Massachusetts, told Mr. Dole that they had lined up 58 votes to overturn the law requiring the discharges.

The language to reverse the policy is in an amendment, sponsored by Mr. Cohen and Mr. Kennedy, to legislation that would provide money for the rest of the 1996 fiscal year for some of the largest Federal departments and the District of Columbia. The amendment was adopted on a unanimous voice vote; several hours later, the Senate approved the overall bill on a vote of 71 to 29.

"Today's Senate action clearly demonstrates that this misguided policy's days on the statute books are

numbered," Mr. Kennedy said. "The Senate looked at the facts and listened to our military and medical leaders, and not a single senator was willing to defend the mandatory discharge provision."

But the policy will not be changed without a similar vote in the House, where the effort to overturn the provision is expected to encounter much stiffer opposition.

"We will stop it dead in its tracks," said Paul Mero, chief of staff for Representative Robert K. Dornan, the California Republican who sponsored the legislation requiring discharges for members of the military who test positive for H.I.V., the virus that causes AIDS. "It's going nowhere."

That legislation was part of a \$265 billion military authorization bill that President Clinton signed on Feb. 10.

At the time, Mr. Clinton said he opposed the AIDS provision, and he vowed "to repeal this provision before a single service member is discharged from the service." But he said he felt compelled to sign the defense authorization bill because it contained other provisions that he

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ardless of their ability to perform their jobs. The Pentagon says the policy would affect slightly more than 1,000 people.

The AIDS provision requires that the Defense Department begin ousting H.I.V.-infected service members within six months, or by August, re-

called vital to national defense and troop morale. Among those provisions was a military pay raise of 2.4 percent.

LOS ANGELES TIMES (WASH. ED.)

March 19, 1996

Pg. 2

Proposal for Joint Exercises Spurs Uproar in Mexico

■ **Diplomacy:** Officials react strongly to U.S. suggestion to strengthen military cooperation.

By MARY BETH SHERIDAN
TIMES STAFF WRITER

MEXICO CITY—A U.S. proposal to hold joint military exercises with Mexico has caused an uproar south of the border, with the government declaring firmly Monday that it will not permit such an unprecedented step.

"Bilateral cooperation in no way includes joint exercises between the armed forces of the two nations," the Foreign Ministry said in a communique.

In comments that grabbed headlines here, U.S. Defense Secretary William J. Perry told reporters Saturday that Washington had proposed joint exercises with the Mexican armed forces.

"They have that under consideration now, and I believe that there will be certainly joint naval exercises conducted in the next year or so," Perry said as he visited an aircraft carrier about 60 miles northwest of San Diego.

In a nation still smarting from three U.S. invasions over the past 150 years, the comments struck a raw nerve.

Swiftly, Mexican officials assured the public that U.S. soldiers would not be arriving on Mexican soil for maneuvers. "We remain firmly tied to the fundamental argument of Mexico's foreign policy, which is strict respect for the sovereignty of nations and the

principle that only our armed forces can operate on our national territory," Javier Trevino, a senior Foreign Ministry official, declared in a radio interview

Monday.

Perry, in fact, had not suggested dispatching U.S. troops to Mexico. In the last few years, as the United States has strengthened its ties to Mexico with a free-trade agreement, the Mexican military has gingerly started to cooperate more with its U.S. counterpart. In October, Perry made the first official visit to Mexico by a U.S. defense secretary.

Juan Rebolledo, a senior Foreign Ministry official, said in a radio interview that Perry had first suggested the joint exercises during his October visit. The two sides agreed to form a working group to discuss the U.S. proposals. "It was very clear, from the very beginning, that there was no possibility of cooperation on this," Rebolledo said.

Mexico said it had asked the U.S. Embassy for "precise information" about Perry's comments.

Pentagon officials declined to comment on the Mexican statement, but it was clear that some considered it an overreaction.

Perry, they said, had simply listed joint exercises among a number of programs the two countries could undertake to help build goodwill. The proposals were to be discussed next month,

when Mexico's defense minister visits the United States.

But the idea of close military ties is anathema to many Mexicans, who still bristle at the U.S. invasion that forced them to give up half their territory in 1848. To this day, Mexicans visit the National Museum of Invasions in this capital city.

Even during the Cold War, when the U.S. military established close ties with much of the Latin American armed forces, Mexico kept its distance. Its arms-length relationship with U.S. forces was seen as a symbol of Mexico's sovereignty.

Some analysts said Perry's statements came at a poor time. On Friday, the White House announced it was creating a high-level task force to plan "coordinated and urgent" action with Mexico to curtail drug trafficking.

A delegation led by the U.S. drug czar, retired Gen. Barry R. McCaffrey, is scheduled to visit Mexico on March 26. Some Mexicans have expressed suspicion that U.S. antidrug aid could lead to further U.S. military involvement here.

Times staff writer Art Pine in Washington contributed to this story.

WASHINGTON POST

March 20, 1996

Pg. 26

Bomb Injures 2 in Bahrain Hotel

• Reuter

MANAMA, Bahrain, March 19—A bomb exploded in the Baisan Hotel here today, wounding two Indians, witnesses and hotel employees said. It was the third hotel bombing in Bahrain this year.

Officials have blamed similar incidents in the past on Shiite Muslim-led anti-government protesters who are demanding restoration of the parliament and other political reforms.

Earlier today there were indications that the military could get involved in efforts to crush the protests, which have lasted 15 months. Interior Minister Mohammad Bin Khalifa Khalifa met Defense Minister Khalifa Bin Ahmad Khalifa to discuss the situation, the official Gulf News Agency said.

At least 24 people have been killed since December 1994, including seven Bangladeshis who died after arsonists set a restaurant ablaze last week.

FRIDAY, March 15, 1996

outlandish example" of this phenomenon, and the Seawolf submarine.

"It seems that we need a better set of guidelines as to what our priorities are," McCain said, "even if we can reverse this trend [of declining procurement] to some degree."

A relook at priorities should address issues such as "whether we need to continue to spend several billion dollars on a Seawolf submarine," McCain said. "Is that more important than aircraft? That's a tough decision I don't think we've made."

McCain also is advocating a "tiered" approach to readiness, in which forces more likely to be called upon to fight would be maintained at higher levels of readiness than lower-priority forces.

Navy Chief of Staff Adm. Boorda and Army Chief of Staff Gen. Dennis Reimer both said that their services already make use of such an approach.

The senator is preparing to release the results of a study on the subject prepared by congressional staff and several other military experts. He plans to describe his ideas in more detail in a speech on the Senate floor next week, a congressional aide said.

Some of the facts missing from the debate on HIV and the U.S. military

WASHINGTON TIMES

Mar. 15, 1996 Pg. 20

Congratulations to Rowan Scarborough and The Washington Times for again presenting fact rather than fiction in a recent article on the discharge of HIV-positive/AIDS-infected troops from the U.S. military ("HIV-positive troops lose special treatment," Nation, March 5). While most major newspapers have refused to address the real facts surrounding this issue and instead have chosen to represent only the liberal-left view of the proposal, The Times is reporting this issue for what it truly represents—a problem of combat readiness and fairness to other soldiers.

However, there are still some facts missing regarding the issue of HIV in the military that I believe must be made clear to the public. I have learned that the majority of cases of HIV are not the result of homosexual contact (since the military continues to discharge homosexuals despite President Clinton's feeble attempt at compromise through "Don't ask, don't tell"). Instead, the majority of cases are the result of illicit drug use or playing "Russian

roulette" with infected prostitutes. Infection from other sources is quite small and continues to decline within the military service.

Meanwhile, fully fit soldiers who do not use drugs and do not visit houses of prostitution continue to deploy overseas, continue to perform all their military duties and continue to obey the Uniformed Code of Military Justice. It's just too bad that Bill Clinton and the liberal media didn't pay more attention to these soldiers, more than 99 percent of our military force. Rather than focusing on the issue of HIV, the liberal media could have examined the pay raise (twice canceled by Mr. Clinton), the

Republican proposal to avoid the disaster in Somalia by limiting U.N./foreign command of U.S. troops or the lack of funding priority given to ballistic missile defense programs despite the clear threat in Iraq, China and elsewhere.

If you want to read about these real issues of combat readiness or get the real facts on the HIV issue, I suggest everyone continue to read The Times.

ROBERT K. DORNAN
U.S. House of Representatives
Washington

Editor's note: The article referred to appeared in the *Current News Early Bird*, March 5, 1996, Pg. 5.

WASHINGTON TIMES
March 15, 1996
Pg. B8

U.S. to discuss tension with China

Deputy U.S. Trade Representative Charlene Barshefsky will travel to Beijing the first week of April to meet with Chinese authorities to discuss tensions that threaten trade relations between the two countries. The mission will focus on China's failure to enforce last year's intellectual property pact and U.S. threats to impose more than \$1 billion in sanctions, Trade Representative Mickey Kantor said.

DEFENSE
DAILY
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1996
Pg. 398

HOUSE REPUBLICAN GROUP FORMED TO TARGET WASTEFUL DoD SPENDING

Several House Republicans yesterday announced the formation of a new House group whose goal will be to root out wasteful Pentagon spending.

"Too often, those of us on the Republican side of the aisle aren't as critical of wasteful spending at the Pentagon as we are of spending in other departments and agencies," said Rep. Mark Foley (R-Fla.). "The Republican Defense Working Group will be looking for savings in the defense budget just as we have been doing at HUD and the Departments of Energy, Education and Commerce."

Attending a press conference announcing the formation of the group were GOP Reps. Foley, Mark Neumann (Wis.), Scott Klug (Wis.) and Frank Riggs (Calif.). Other members of the group include Jerry Weller (Ill.) and Tom Latham (Iowa).

House Speaker Newt Gingrich (R-Ga.) and House Budget Chief John Kasich (R-Ohio) have said that efforts need to be made to reduce wasteful Pentagon spending. The group, which has not yet been formally recognized by the GOP leadership, wants to assist efforts to achieve a balanced federal budget. It plans to make policy recommendation to the full Republican Conference.

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upon what we saw, that the Chinese actions are provocative, unwarranted, dangerous and irresponsible.

As President Clinton's actions make clear, the United States cannot stand idly by and tolerate escalating Chinese threats against Taiwan. We have a huge stake in the Pacific area, and China's threats against Taiwan really are aimed at the United States. While the Taiwanese are not asking the United States to send troops there, there is an acute need for American help in improving the capability of Taiwan's armed forces.

Taiwan is a democracy—in fact, Taiwan is the newest democracy in Asia. As a democracy, Taiwan is committed to providing for its own security and defense. But to accomplish the goal, Taiwan needs capable high technology weapons systems. Unfortunately, the Clinton administration has been slow to respond, which has only encouraged China to upgrade its own technology and increase the threat against Taiwan.

China is massing a high amount of air power against Taiwan. Just in fighter aircraft alone, China has put over 250 interceptors and bombers on its coastline opposite Taiwan. This massing of air power poses a clear and present danger to Taiwan, which needs more air defense to protect critical installations on the island such as nuclear power plants and commercial centers. One of the systems Taiwan could readily use to defend both its main island and the two small, strategic islands of Quemoy and Matsu, which belong to Taiwan and which are just a few miles from China's

coastline, are Stinger missiles. We gave Stinger missiles to the Afghan insurgents who used them to defeat Soviet helicopter gunships and ground attack jets that were ravaging Afghanistan's freedom fighters. The Stingers worked so well that they led to a Russian pullout. A few thousand Stingers in Taiwan's hands would provide excellent defense for the outer islands and for Taiwan itself. They are needed desperately, yet the administration has refused to provide them.

Another sensitive area is submarine defense. The Chinese have submarines and are now getting from Russia Kilo-class attack submarines, a formidable weapon. With these submarines the Chinese can threaten Taiwan's navy and choke up Taiwan's harbors, which are critical to her economic survival. Taiwan needs fast help to counter the Russian-supplied subs. Some of the systems that would provide immediate help are P-3 aircraft that can detect submarines, and new submarines of her own. Today Taiwan has only four submarines—two old-fashioned, small "Guppy" boats which are no match for Kilos, and two more modern submarines that cannot, alone, protect all of Taiwan's coastline.

Our ability to provide weapons to Taiwan will be a test of our resolve to maintain the balance of power in Asia and protect our economic and national security interests. It is time for the administration and the Congress to act before our inaction leads to unchecked Chinese military attacks.

Taiwan also needs the best available anti-ballistic missile defense.

The Chinese rockets being fired this week near Taiwan can carry conventional weapons or weapons of mass destruction, including chemical, biological and nuclear warheads. This type of threat is very serious and requires a response. Taiwan, today, has no practical way to stop such missiles. To help Taiwan, the United States should be prepared to make available the latest systems, such as the advanced Patriot. The Patriot was used to defend against Scud missile attacks against Israel and Saudi Arabia. Now it has been much improved and it would provide Taiwan with a good defensive system.

Another threat against Taiwan are Chinese cruise missiles. China has been getting technology from Europe and the United States and is using it to modernize its cruise missiles. Thousands of these missiles threaten Taiwan, and China is also selling them to regimes in the Middle East, including Iran. These missiles threaten us as much as Taiwan. Even so, the U.S. government keeps selling critical technology to China for modernizing cruise missiles, such as small jet engines and jet technology and specialized electronics. This has to stop.

It is time for our government to realize it has a serious responsibility and can't sell anything and everything to countries intent on turning our technology into weapons that can be used against us and our allies.

Stephen D. Bryen was deputy undersecretary of defense for trade security policy from 1981 to 1988.

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MCCAIN ADVOCATING A REEXAMINATION OF DOD FORCE PRIORITIES

By Sheila Foote

To ensure that future forces will be equipped to fight, given scarce defense dollars for modernization, Sen. John McCain (R-Ariz.) is advocating a broad relook at how DoD prioritizes its force structure.

McCain believes fiscal realities will mean that the administration's projections for increased dollars for procurement in coming years will not come to pass, and also will mean that more dollars will not be available for the defense topline budget.

At a hearing at which the four service chiefs testified yesterday, McCain expressed concern that the defense budgets approved in recent years do not reflect a well-thought out set of priorities. McCain chairs the Senate Armed Services Committee's panel on Readiness.

"What has bothered me in this process we went through last year and in previous years is we haven't really been able to establish priorities," McCain said.

The defense budgets approved by Congress have "all kinds of a clutter of weapons systems that sometimes have more relation to the power of a member of Congress than the national security requirement," McCain said. McCain singled out the B-2 bomber, which he called probably the "most

HIV POSITIVE

What benefits/entitlements will HIV service members and their families be entitled to?

Complete details are uncertain at this time, but DoD will work with the Department of Veteran's Affairs to secure the full benefits these affected service members and their families are entitled to, including among other things, disability retirement pay, health care coverage for their families, and transition benefits such as vocational education.

- When will DoD begin discharge procedures for HIV positive members?
The office of the Secretary of Defense is working with the Services to develop procedures. However, no one will be involuntarily separated prior to the end of the sixth month following enactment of this provision.
- How many HIV positive members are now on active duty?
As of December 15, 1995, there are 1,049 members HIV positive.
- How many HIV positive members are married?
About half are married.
- How many HIV positive members have dependents other than spouses?
About 55% of HIV members have dependents including children and dependent parents.
- How many HIV positive members are women?
About 5 percent.
- How many total permanent non-deployable persons are there in the military?
There are about 6,700 including the 1,049 HIV positive members, with some assignment restrictions.
- For what reasons might they not be deployable?
Medical reasons such as cancer, heart conditions, diabetes, blood disorders, etc.
- How many temporary non-deployable members are there in the military?

Bob,
FYI --
Brian said. DOD used

these as
TPs for

Post-
Guidance

Friday
afternoon

Ch

Joe

INFORMATION PAPER

SUBJECT: Career Management of HIV Positive Service Members

DISCUSSION:

- **Question 1:** Did anyone who was diagnosed with HIV require re-training?

Answer 1:

Army	6
Navy	0
Marine Corps	1
Air Force	6
Total	13

Each Service responded it is not policy to require members diagnosed HIV positive to retrain in another occupational specialty.

- **Question 2:** Was anyone diagnosed as being infected with HIV recalled to CONUS from overseas?

Answer 2:

Army	63
Navy	263*
Marine Corps	2
Air Force	16
Total	344

* Navy figure includes 251 transfers from shipboard assignments that require overseas deployment.

- **Question 3:** Was anyone who was diagnosed as being infected with HIV reassigned to California or Virginia?

Answer 3:

Army	1
Navy	262
Marine Corps	3
Air Force	9
Total	275

Bob, will be redone to say "statistics are unavailable". I have reason if needed. un, Joe

FEB 29 1996 10:45 FROM 202 000 0001 HNK 01 00 10:00 NO.002 P.00

The Air Force and the Army replied that there are not assignment limitations within the Continental United States for HIV positive members.

- **Question 4:** Was anyone who was diagnosed as being infected with HIV ever deployed or assigned overseas before the diagnosis?

Answer 4:

Army	182
Navy	411
Marine Corps	31
<u>Air Force</u>	<u>55</u>
Total	679

NATIONAL
SECURITY COMMITTEE

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PERSONNEL SUBCOMMITTEE
RESEARCH AND DEVELOPMENT
SUBCOMMITTEE

PERMANENT
SELECT COMMITTEE ON
INTELLIGENCE

CHAIRMAN,
SUBCOMMITTEE ON TECHNICAL
AND TACTICAL INTELLIGENCE

Congress of the United States

House of Representatives



ROBERT K. DORNAN

February 14, 1996

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CONTROL CAUCUS
PROPERTY RIGHTS COALITION
HUMAN RIGHTS CAUCUS

The Real Story Behind HIV in the Military

Dear Colleague:

Here are the facts:

- ◆ There are approximately 1,049 HIV/AIDS infected military personnel on active duty today. If they were deployed overseas, they have been sent home. They are not allowed to carry a weapon or visit a pistol range. They are not allowed to serve on board an aircraft or a ship. They are not allowed to serve on medical teams. Not one of the world's 191 nations will let an HIV/AIDS infected soldier to serve on their soil. These personnel are excluded from the routine revolving universal deployment that defines military service. In fact, HIV/AIDS infected military personnel are disallowed from doing *anything* that defines military life. *narrow view of military life*
- ◆ Prior to Bill Clinton taking command and downsizing our military by 700,000 servicemen and women, these fluxing 1,000 or so persons were reluctantly absorbed by commanders who were doing their best to avoid the wild public relations battle that we see occurring now. But Clinton's downsizing created a new problem. To wit, bringing HIV/AIDS infected personnel back to the states to serve in a "non-military" job with no heavy lifting meant either the demoralizing and immediate redeployment of another soldier, perhaps one who had just returned home, or a career-ending blow to a fully deployable serviceman or woman forced out of the military.
- ◆ Far from being punitive or malicious, the Dornan provision, recently signed into law by Bill Clinton, is motivated by military reality. HIV/AIDS infected personnel cannot do anything that you see in those gung-ho military television commercials about "aim high," "see the world," or "be all that you can be." In military terms, these personnel are non-combat assignable. If you can't be utilized, then why serve? *narrow view*
- ◆ The Magic Johnson analogy is specious, especially in the light of heavyweight boxer Tommy Morrison. The NBA is not the military. Unlike Magic, HIV/AIDS infected military personnel are by definition unable to carry out duties for which they were trained. Like Magic, these personnel are ill and disabled, again by definition, notwithstanding that they can still physically function. Even without Bob Dornan's provision, if Magic was in the service playing basketball, he would only be allowed to

- ◆ HIV is one of various illnesses that classify personnel as non-deployable. Asthma, cancer, diabetes, and heart disease are a few others. The military considers HIV as different than other illnesses because HIV is the only one that is irreversible and untreatable. If you become infected, sooner or later, you will die an HIV-related death. The same is not true of the others which are treated on a case by case basis. above check '8 directiv
- ◆ When the military's sole mission is to wage and win America's wars there is no room for "fairness" or "compassion." In just the last two years, our military has discharged over 12,000 men and women for being overweight. Hundreds of others have been let go for being too skinny, too weak, for other health problems which were acquired after enlistment, and for a host of other reasons such as alcohol abuse.
- ◆ Settling for some undetermined extension of health and disability benefits for these infected personnel, Clinton is opening up himself and his supporters to a highly controversial public debate over which classification of infected personnel should get these extended benefits. Clinton will now force the military and all of America to ask of these HIV/AIDS infected personnel how they acquired their infection.
- ◆ Why is this question relevant in the military? Because the three primary ways of transmission of HIV are through violations of the Uniformed Code of Military Justice (UCMJ). Illicit drug use, visits with a prostitute, and homosexual sodomy represent 99.9 percent of all military cases. And the only reason I have graciously reserved one tenth of one percent for other transmissions is that questions remain about the documentation surrounding transmission to innocent victims such as unwary spouses of the infected and persons who became infected through blood transfusions. Vets
- ◆ I have consistently received letters over the years from the uniformed military encouraging me to address the HIV problem -- including letters from then-Chief of Naval Operations, Admiral Frank Kelso, then-Commandant of the Marine Corps, General Carl Mundy, the Non-Commissioned Officers Association, and one young Marine Corps company commander who wrote, "my one HIV Marine kept another Marine from leaving a deploying unit ... This may not seem like much to some congressmen, but I'm sure it meant a lot to the guy and his family who had just spent 54% of their last three years separated due to normal deployment patterns." Shali Berry Reagan Directive
- ◆ Why was it that no one was moved to action on the HIV issue even after having debated it for five years, with numerous legislative opportunities for amendment or repeal, and a completely open floor process during this year's debate? The concern was raised only after Clinton's friends in the AIDS lobby realized that he had just dumped on them. Almost immediately, the AIDS lobby public relations machine, coordinated by the White House and the editorial boards of *The New York Times*, the *Los Angeles Times*, and *The Washington Post*, kicked into gear. HIV in the military had just spent five years becoming an overnight sensation. Do
↓
Charles Krauth.
George Will Court?

Case of
Caring about
people,
not lobby

◆ The simple fact is that if Clinton truly cared about the AIDS lobby as much as he says he does, then he would have unhesitatingly vetoed the defense bill or, after having signed it, issued an Executive Order classifying these "healthy" infected personnel as fully -- deployable. Until he commits that latter stroke of genius, he will have to settle with being in agreement with the Dornan provision: HIV/AIDS infected military personnel are different, by the very nature of their irreversible terminal disease, and need to be treated differently.

Bell, Robert G.

From: Sestak, Joseph A.
To: Bell, Robert G.
Cc: /R, Record at A1
Subject: RE: HIV [UNCLASSIFIED]
Date: Monday, February 26, 1996 10:07AM

Bob,

IRT your query: Toni Hustead (Chief, VA Branch) is point woman for HIV issue. Status is as follows:

VA is in the first year of a about a seven-year review of its rating schedules for all disabilities. Evidently, it is a very archaic system, where people with flat feet or high blood pressure are rated as 30% disabled, even though in TODAY's society, proper foot treatments and high blood pressure medicine can help such veterans be fully capable of working. (VA allegedly argues that it doesn't matter if these people can work, they are still "disabled")

For our purposes, over the past year, the rating schedule for HIV-related diseases has been undergone this review process. It is a very formal one which entails sending the schedule out for comments from the public. The review of the HIV-schedule was in the "formal rule" part of the process - - where no one can make any further changes to the schedule UNLESS someone has already done so in the earlier period when comments were solicited - - when the HIV-provision controversy erupted. VA can therefore legally use this as the "hook" to now change the HIV rating: i.e., since the Disable Veterans of America had earlier made a comment that VA should consider the rating scales which the Center for Disease Control uses for HIV persons, VA can now use this comment to legally change its HIV rating.

VA's GC, however, is moving slowly. One the one hand they should: they distribute 18-20 billion/year in disability funds and if they do this change for HIV wrong, they may open themselves up to setting a Very Expensive precedent for other diseases to be similary classified as "disabling" while they presently are not. On the other hand, they could move more quickly because they know that the decision has been made to do it; they just need to do so, in the view of VA.

While you might want to consider calling Hersel (and OMB would be receptive to our doing so), you also should be aware that the GC of VA (who has also sat in on these HIV meetings) is Mary Lou Keener, whom Hershel married just this last January. She is the one who has been presenting the case for being careful - - and taking the proper time - - to come up with the correct rationale for why these previously "able" persons are now "disabled" - - without opening the door to other diseases by setting some unwitting precedent.

All that being said, I gather from OMB that it would be nice to have DoD state in a letter to OMB and VA that it must have a ruling by a firm date (e.g. April 15) on the rating decision for the disability for HIV persons in order to effect an August discharge (if needed). This, in OMB's mind, would present VA with a ticking timeclock they would feel obligated to meet. Evidently, in the last HIV meeting, DoD was not firm in its deadline (e.g. saying around June or so). Should we press this with F. Pang and wait for a bit with VA? vr, Joe

From: Bell, Robert G.
To: Sestak, Joseph A.
CC: /N, NonRecord at A1
Subject: RE: HIV [UNCLASSIFIED]
Date: Wednesday, February 21, 1996 09:37 PM

OK - who is point-man/woman on this at VA? Do I need to call Hershel and ask him to speed things up?

From: Sestak, Joseph A.
To: Bell, Robert G.
CC: /R, Record at A1
Subject: HIV
Date: Wednesday, February 21, 1996 09:32 PM

Bob,

At meeting yesterday on HIV-provision and administrative efforts to effect a disability discharge: DoD will delay as long as possible on discharges. To effect any by the date they must actually discharge, DoD must begin process about 1 June. All concerned (in and out of government) want to delay

beginning this process as long as possible in order to hold off on someone bringing a lawsuit. The reasoning is that most believe the the legislative process might produce a repeal of the provision IF the "momentum" is not taken away by a court case.

Meanwhile, the administrative holdup in preparing to be ready to discharge these individuals with disability is in VA -- not DoD. VA still feels that they will need a month or two (before it was a few weeks) to develop the rationale for why these previously "able" persons are now "disabled". There was a big push at the meeting for VA to pick up speed in doing this. Unsure when next meeting is, but I will tie in with OMB (Veterans directorate) who has said they will help VA in this matter. vr Joe

FRIDAY, February 2, 1996

WASHINGTON POST

Feb. 2, 1996

Pg. 19

Charles Krauthammer

The GOP's HIV Disgrace

So this is what the great Republican revolution has come to: No welfare reform. No entitlement reform. No tax cuts. No balanced budget. But, thanks to legislation Republicans have tenaciously insisted upon, if you are HIV-positive you will now be kicked out of the military.

Now, there is no disgrace in losing. Republicans made a valiant, if tactically confused, attempt at major welfare-state reform before finding that under the Constitution one cannot govern, let alone run a revolution, from Congress. There is no disgrace in being stopped cold by a president's veto. But there is disgrace in passing some of the petty, petulant legislative crumbs that the Republicans have settled for and that Clinton was prepared to let them have. Of which the HIV purge is a particular disgrace.

In December Clinton vetoed the Republicans' defense authorization bill because of major policy objections. Clinton opposes, for example, the provision for building the first system ever to protect Americans from ballistic missile attack. He also objected to the Republicans' HIV purge.

So what happened? On the big one, the ABM system, the single most important defense issue facing the country in this age of rogue states and nuclear proliferation, the Republicans caved. They sent the president a new defense authorization bill simply leaving it out. But they clung fiercely to the HIV provision. Clinton will now sign, not wanting to block the pay raises, Bosnia funds and other important provisions in the bill. He will work to undo the HIV mischief later.

It is hard to imagine a more mean-spirited and useless provision in any bill. On the merits, it is simply a manifestation of bigotry. The armed forces carry many other people with chronic conditions such as cancer and heart disease that might restrict activities. But they do not force them out of the service.

HIV-positive soldiers are already restricted from combat duty or overseas assignment for reasons of prudence. But there is no reason whatsoever why missile engineers and Navy lawyers and hundreds of others should be forced into retirement because of HIV status.

The return of Magic Johnson to the NBA gives the lie to the notion that there is anything inherently debilitating about HIV status before the advent of AIDS itself. Nor is HIV contagious. HIV is not TB. You do not spread it by coughing on someone. As one bemused basketball star said when asked whether he feared playing Magic Johnson: "It's not as if we're going to have unprotected sex with him on the court."

HIV-positive service personnel now to be

discharged are by definition in good health. If not, they would already have been discharged like other sick or disabled soldiers. In his NBA debut Tuesday, Johnson scored 19 points in 27 minutes. Were he a Marine Band clarinetist, he'd be fired for . . . what? Physical frailty?

Like another Republican legislative triumph—shoe-horning a ban on embryo research into the continuing resolution that kept the government from shutting down on Jan. 26—this is supposed to demonstrate Republican concern with cultural issues.

Goodness. With rampant crime, epidemic illegitimacy, a polluted popular culture, this is how the Republican Party demonstrates concern with the moral climate of America? By purging the armed forces of perfectly healthy HIV-positive members and by banning research on days-old fertilized eggs, research with enormous potential for alleviating chronic illnesses?

It is time for the Republicans to realize that the game of trying to govern with a Democratic president in office is over. It is time to stop trying to win these little, belittling victories as a substitute for the real thing. In that same continuing resolution, the Republicans bravely killed off the Native Hawaiian and Alaska Native Cultural Arts program. Hurrah. Meanwhile, the big fish, the federal patrons of political correctness—the National Endowment for the Humanities and the National Endowment for the Arts—live on. Some revolution.

Forget it. Forget phony "compromise" and create real issues. Send to the president the Senate's original welfare reform bill, the one that passed 87 to 12. Dare him to veto it. Send him a stand-alone bill mandating construction of an anti-ballistic missile system for the American people. Let him veto that too. Send him yet another balanced budget with real entitlement reform. Resubmit it to him every month until Election Day. Let him veto everything.

Put the serious issues on the table. Present stark alternatives. Then campaign against the do-nothing president, and let the people decide. But stop the petty stuff. It's disgraceful.

USA TODAY

Feb. 1, 1996

Pg. 5

Missouri

St. Louis — Nearly 450 workers will remain at Logistics Systems Support Center, U.S. Rep. Dick Gephardt says. The Pentagon had planned to ship them to Alabama.

WASHINGTON POST

Feb. 2, 1996

Pg. 17

Lawmakers Object To Golf Course Plans

The Pentagon should cancel plans to build a third 18-hole golf course at Andrews Air Force Base in Maryland and use the \$5.1 million to shore up shortfalls in military day care, four House members said yesterday.

"It doesn't make sense to flush over \$5 million down the drain to give high-ranking officers at Andrews a more varied golf experience," said Rep. Peter A. DeFazio (D-Ore.), an avid golfer.

Air Force officials say the third course is needed to meet growing demand. They say it is financed through recreation fees and does not involve tax dollars. But DeFazio said it's an accounting trick that ultimately does affect federal expenditures.

The courses at the local base are open to active and retired military personnel, civilians who work on the members of Congress and guests of people in those categories.

Reps. Jack Metcalf (R-Wash.), Christopher Shays (R-Conn.) and David Minge (D-Minn.) joined DeFazio in a letter to Defense Secretary William J. Perry yesterday complaining about the use of the money from the Pentagon's Morale, Welfare and Recreation budget.

"The same MWR funds that pay for golf course construction also finance military day care. The DOD has identified a substantial shortfall in day care for our military families," they said.

A spokeswoman at Andrews Air Force Base said no one was immediately available to comment.

— Associated F

BOSTON GLOBE

Jan. 31, 1996

Pg. 4

US returns some Haiti documents

PORT-AU-PRINCE, Haiti — Bowing partially to Haitian demands, the United States yesterday returned about half of the thousands of documents US troops seized from a notorious paramilitary organization, the Front for the Advancement and Progress of Haiti, in 1994. But the Clinton administration withheld the rest of the papers, which Haiti wants to prosecute suspected human-rights violators. (AP)

FRIDAY, February 2, 1996

NEW YORK TIMES

Feb. 1, 1996

Pg. 21

'Junior Partner'? No Way

By Gennadi A. Zyuganov

It is often said in the American press that Russia's Communists are by definition unfriendly to reform and to the United States. Yet the Communist Party of the Russian Federation was born six years ago precisely as a party of reform in opposition to decades of stagnation and to Mikhail Gorbachev's itch for revolution. While the West sang hallelujahs to perestroika, we knew that revolutions in Russia have always had painful consequences.

We thus called for evolutionary reform consistent with Russian historical traditions and world trends. Unfortunately, we were not listened to, and the Soviet Union collapsed.

Boris Yeltsin's regime has thoughtlessly tried to bring the "blessings" of neo-liberalism to Russia, whose economy and character are quite different from those in the West. The results have been disastrous: The gross domestic product and living standards have fallen drastically. Mr. Yeltsin's promises to increase social spending and improve living conditions are merely an electoral maneuver.

Mr. Gorbachev and Mr. Yeltsin are considered friends of the United States. Although we are denied this honor, we will share with you our view of post-Yeltsin relations between the

United States and Russia and of Russian foreign policy.

We would restore the might of the Russian state and its status in the world. That would make its policies incomparably more predictable and responsible than they are today.

Our foreign policy priority would be to maintain continuity with the foreign policies of pre-revolutionary Russia and the Soviet Union. We would seek to restore our state's unique role as the pivot and fulcrum of a Eurasian continental bloc — and its consequent role as a necessary balance between East and West.

We consider the disruption of military and strategic parity caused by the collapse of the Soviet Union dangerously destabilizing. And we see the restoration of the union of the former Soviet peoples — based on voluntary association — as a historical necessity dictated by Russia's needs and those of world security. Guided by pragmatism, we would free foreign policy of ideology, which imposes ruinous actions and obligations. We reject fantasies about "world revolution" but also consider the "new world order" no less alien to Russian interests. And we would stringently adhere to universal moral principles and the norms of international law.

Above all, we would concentrate on internal healing and national rebirth. The foreign policy conducive to this effort would be limited to maintaining state security. This rules out being drawn into supranational organizations that claim the right to interfere

in others' internal affairs. Thus, we take an extremely negative view of plans to expand NATO into Eastern Europe, up to Russia's border, and we regard the entry of NATO troops into the former Yugoslavia as the first step toward carrying out those dangerous plans.

Several years have passed since the cold war ended, but relations between our countries are far from harmonious. Though it must renounce useless and excessive military spending, Russia never was — or could be — a "junior partner." For Americans, too, the burden of being the only superpower is unnecessary and undesirable. Any policy that counts on Russia's remaining in its humiliating position, following in the American wake, is doomed to defeat.

We respect your democratic traditions and outstanding achievements. We are deeply interested in expanding economic cooperation and educational, scientific and cultural exchanges. We are ready to guarantee American investments and to create better conditions for them than now exist.

Recognizing the uniqueness of the American experience, we insist on acknowledgment of our equal right to follow our own path in accordance with our traditions and conditions. The principle of diversity, on which you have successfully based your domestic policy, should extend to foreign policy as well. □

Gennadi A. Zyuganov is the leader of the Russian Communist Party.

WASHINGTON POST

Feb. 2, 1996

Pg. 18

France: No Radioactive Leakage

On Jan. 24, The Post carried, under a misleading headline, a story echoing a report by a Japanese newspaper, stating that France had acknowledged radioactive leakage in the South Pacific nuclear tests. This acknowledgment was said to have occurred during a meeting of experts on the Comprehensive Test Ban Treaty (CTBT) held in Washington in November 1995.

These allegations have no foundation whatsoever. During the recent testing campaign, no significant radioactivity leakage was documented, including when post-experimental drillings were performed.

There is nothing new in what the

French expert stated regarding the appearance of iodine 131 traces after post-experimental drillings. The fact has been documented following oceanographer Jacques Cousteau's mission in 1987 and made public thereafter. It is mentioned in the reports of the French Commissariat for Nuclear Energy and of the body responsible for the nuclear testing program. In addition, this information was again made available to the press during visits to the testing site in July and August 1995. It has repeatedly been acknowledged that the traces of radioactive substances found in the water were insignificant and innocuous.

Contrary to what The Post asserts, the specific data on the iodine 131 traces have never been characterized as being particularly confidential, as that information has in any case been in the public domain for a long time. It is only the subject discussed at the November meeting—i.e., the verification system for the CTBT, one of the most delicate issues in the negotiations to establish a ban on nuclear testing—that has been handled in a confidential manner.

FRANCOIS BUJON de l'ESTANG

Ambassador
Embassy of France
Washington

Editor's note: The article referred to appeared in the *Current News Early Bird*, Jan. 24, 1996, Pg. 19.

Joint Statement For Secretary Perry and
For General Shalikashvili, Chairman, Joint Chiefs of Staff

Section 567 of S.1124, the National Defense Authorization Act for Fiscal Year 1996, requires the separation from the armed forces of any member who is HIV-positive.

This provision will require the discharge of over 1000 service members who, although they have tested HIV-positive, are currently deemed fit to perform their duties. While nondeployable, they join other service members in that category.

To discharge all of these service members arbitrarily as section 567 mandates would be both unwarranted and unwise.

Section 567 is unnecessary as a matter of sound military policy because there is already in place a physical evaluation system to determine the fitness for duty of HIV-positive personnel.

Discharging service members deemed fit for duty would waste the government's investment in the training of these individuals and be disruptive to the military programs in which they play an integral role.

There are service members who suffer from diseases that make them non-deployable, but who are still permitted to serve their country so long as they meet uniform retention standards. Decisions on their retention are made on an individual basis in accordance with current regulations. Section 567 singles out those members who are HIV-positive and requires discharge regardless of their ability to perform. This violates a standard traditionally used by the services for retention and thus undermines a fair policy of evaluating retention on medical and service issues on an individual basis.

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

February 9, 1996

PRESS BRIEFING
BY COUNSEL TO THE PRESIDENT JACK QUINN
AND ASSISTANT ATTORNEY GENERAL WALTER DELLINGER

The Briefing Room

1:41 P.M. EST

MR. MCCURRY: Good afternoon, everyone. I apologize for the delay, but I wanted to be in a position to report to you on several decisions the President has just taken.

As you know, the President is expected to render final judgment tomorrow on the FY 1996 Defense Authorization bill. More on that subject -- much more later. But there was a provision of that bill that was of very great concern to the administration. The President 's just made decisions concerning the legality of that provision; also signed a directive related to how the Executive Branch will cope with the consequences of that provision. What I'd like to do is ask legal counsel Jack Quinn to talk about the decisions the President has just taken. With him is Assistant Attorney General Walter Dellinger. And it is a great honor to turn the podium over to my colleague, Jack.

MR. QUINN: Thank you, Michael.

Thank you and good afternoon. As Mike indicated, we anticipate that tomorrow the President will sign the Department of Defense Authorization bill. As you also know, the President's indicated previously that there's a provision in that bill that he finds completely abhorrent and offensive -- the Dornan Amendment, which would require the Armed Forces to toss out of the military everyone who is HIV positive, no matter what the cause of that affliction, and despite the fact that these people are physically and medically able to perform their military duties.

This provision of the bill, in the President's judgment, is mean-spirited and serves no purpose other than to punish people who deserve this government's help, not its hatred.

The President's response to this provision is three parts. First, we will vigorously support the Kennedy-Cohen legislation which we anticipate will soon be introduced to repeal the Dornan Amendment. The President calls upon Congress to act swiftly on this legislation and pass it.

The second, the President has determined that this provision is unconstitutional. He's, therefore, directed the Attorney General not to defend it in court. The President has been informed in this regard by the Department of Defense that in its judgment the Dornan Amendment serves no legitimate military purpose; that it is arbitrary, unwarranted, and unwise.

If I may, I'd like to read a portion of the joint statement which the President received on this recently from Secretary Perry and Chairman of the Joint Chiefs Shalikashvili. It reads in pertinent part as follows:

"To discharge all of these service members arbitrarily, as Section 567 mandates, would be both unwarranted and unwise. Section 567 is unnecessary as a matter of sound military policy because there is already in place a physical evaluation system to determine the fitness for duty of HIV positive personnel. Discharging service members deemed fit for duty would waste the government's investment in the training of these individuals and be disruptive to the military programs in which they play an integral role.

"This provision violates a standard traditionally used by the services for retention and, thus, undermines a fair policy of evaluating retention on medical and service issues on an individual basis.

Based on this advice from the Department of Defense and Joint Chiefs of Staff, and after consulting with the Department of Justice about the legal effect of that advice, the President concluded that the Dornan Amendment is unconstitutional. It arbitrarily discriminates and violates all notions of equal protection. Again, at the direction of the President, the Attorney General and the Department of Justice will decline to defend this provision in court. If the Congress chooses to defend this treatment of men and women in the military, it may do so. But this administration will not.

Finally, we hope that no service member will be discharged under this provision if Congress does what it should and repeals it. But in case that does not happen quickly enough, the President is directing the Departments of Defense and

Veterans Affairs, as well as the Department of Transportation, which is responsible for the Coast Guard, to take all necessary steps to ensure that separated service members and their families will get the full measure of benefits that they should, including disability retirement pay, health coverage for their families, and transition benefits such as job training.

We'll be happy to take questions, but I'd like to invite Assistant Attorney General Dellinger to add to my statement.

MR. DELLINGER: We advised the President that this provision, which discriminates against a group of healthy and productive members of the Armed Services, would be constitutional only if it serves a legitimate governmental purpose. After consulting with Secretary Perry and the Joint Chiefs, the President concluded that the provision does not serve any valid military or other purpose. Based on the Pentagon's military conclusion, and after consulting with the Department of Justice about the legal effect of those conclusions, the President appropriately determined that the provision is unconstitutional and that the Department of Justice should not defend its constitutionality in any litigation.

We'd be happy to answer questions.

MR. QUINN: May I just add -- Mike reminds me that copies of the statement by Secretary Perry and General Shalikashvili, as well as the directive I alluded to, will be available to you in a few minutes.

Q Did the President have the opportunity to tell the Defense Department not to enforce the law if he finds it unconstitutional?

MR. QUINN: We discussed that matter. I'm going to ask Walter to elaborate on it. There are ample reasons why we're not in a position to direct the Secretary of Defense not to enforce it. What it boils down to, frankly, is that we don't have the benefit of a prior judicial determination to the effect that this provision is unconstitutional, and in circumstances where you don't have the benefit of such a prior judicial holding, it's appropriate and necessary to enforce it. Among other things, by setting in motion enforcement of this policy, that is how we will get a case moving, the ultimate result of which, of course, we believe firmly will be for the courts to strike this down as unconstitutional.

Q Will that be tomorrow, immediately after --

MR. DELLINGER: Let me add one point to that, Ms. Thomas. When the President's obligation to execute laws enacted by Congress is in tension with his responsibility to act in accordance with the Constitution, questions arise that really go to the very heart of the system. And the President can decline to comply with the law, in our view, only where there is a judgment that the Supreme Court has resolved the issue. And here the courts have not had an opportunity to resolve it, and the action the President is taking, if the leadership of the House and Senate choose to defend this provision, will ensure that the courts are presented with a full range of argument in making their determination.

Q How long will that take?

Q Is there a particular case you will rely on in your judgment that this is unconstitutional, or is it just some reading you're making of the Constitution as written?

MR. QUINN: We are going to rely upon the judgment that the President has made in consultation with the Joint Chiefs and the Secretary of Defense that this provision serves no valid military purpose. And if that is the case and that is their determination, we'll present that determination. That is the basis of the President's decision that the Department will not defend the constitutionality of this provision.

Q That phraseology itself suggests that there must be some body of case law that derives from this that you would cite as an example.

MR. QUINN: In cases like this where you have a discrimination worked on the face of a statute, the question the courts ask is, is there a rational basis for this discrimination? Does it serve some valid, legitimate, rational government objective? The people to whom that question is properly put by the President are the Secretary of Defense and the Chamber of the Joint Chiefs. They've indicated to the President that, in fact, no, this provision does not pass that test. It does not serve a valid military purpose, and, in fact, according the statement I just read you, it is detrimental to the military mission.

Q There must be some cases where that's been found an applicable standard, though. There must be --

MR. QUINN: There are a ton of cases, yes. There are a ton of cases, absolutely. Absolutely.

Q Jack, you mentioned that the -- if the law goes into effect, that the discharged members will receive a full measure of benefits. Would they receive benefits above and beyond what any honorably discharged member of the service --

MR. QUINN: Yes. Here's what we're trying to do with this directive. What we want to do, what the President is determined to do with this directive is to make sure that in the unhappy event that the court doesn't quickly enough strike down this provision and some of these people are discharged, that they would get the full measure of benefits that they would get if they were retired for medical reasons.

Now, the directive, you'll see, asks the affected departments to flesh that out. But, again, we're talking about disability retirement. We're talking about the provision of health insurance for families and making transition benefits available. None of those things will now be available in the absence of this directive. The President is determined to make sure we do everything we can to soften any blow if we're unsuccessful in warding off that blow.

Q -- definitely will receive medical --

MR. QUINN: I'm not an expert on -- the answer is yes. I'm advised the answer is yes.

Q Jack, is there any precedence -- do you know of a precedence for a President refusing to enforce a -- to defend a law?

MR. QUINN: Yes. Yes, there's ample precedent for Presidents refusing to defend enactments of the Congress in court. President Roosevelt -- Franklin Roosevelt -- did this in what at the time was a well-publicized matter, but there have been many other occasions. I'll let Walter elaborate on that.

MR. DELLINGER: Let me give you just one example. In 1943, President Roosevelt signed the Urgent Efficiency Appropriation Act notwithstanding his reluctance because of a provision that in his view violated the Constitution by depriving named individuals who were singled out by Congress of the right to ever receive any pay from their government jobs. The President directed the Attorney General not to defend the constitutionality of the provision. The Senate, in fact, defended in the Court of Claims through counsel, and the court ruled in *United States versus Lovett* that the President was

correct in his conclusion and held that provision of the Urgent Efficiency Appropriations Act unconstitutional.

Q So what you're trying to do is you're looking for a case? It sounds as though what you're doing is you're seeking a case as soon as you can --

MR. QUINN: Well, it is as sure as the sun will come up tomorrow that a lawsuit will be filed the moment that this provision is put into effect. We don't have to seek one out, one will be filed.

Q What will be the mechanics, the legal mechanics of that at that point? Is the idea that if the administration doesn't defend the constitutionality of this in court that in essence you're --

MR. QUINN: The Attorney General -- my expectation is that the Attorney General, having been directed by the President not to defend this in court, will notify the congressional leadership and indicate to the congressional leadership that if it chooses to defend this enactment it may do so, but that this administration will not. I can't answer -- I'm sorry?

Q Any indications of what the leadership will do? Have you talked to them about it, working with them on the repeal, or whatever?

MR. QUINN: No. I have no idea --

Q Do you know what their --

MR. QUINN: I do not. I do not. I look forward to seeing how they will respond.

Q Maybe I just didn't notice, but we did not see a lot of administration public complaint about this provision when the bill was working its way through Congress, nor, as far as I know, was it a veto element in the -- or was it? I mean, I don't -- what's the history of you trying to get this done before it happened?

MR. QUINN: I'm advised that our opposition to this provision was stated clearly in our statement of administration policy on the bill.

Q But not as -- you said then you wouldn't veto the bill over it, right?

MR. QUINN: The President is not vetoing the bill.

Q On its effect on the military, the argument you're using that it's arbitrary, the congressional Republicans who sponsored this say that the current policy does affect military readiness because people who test positive for HIV are given shore leave while others have to go overseas or on ship, and that they right now get preferential treatment. What is your response to that?

MR. QUINN: Well, I can't rely on Congressman Dornan to give us advice about military readiness. We have to rely on General Shalikashvili and Secretary Perry, and they conclude to the contrary. And, frankly, I'm satisfied with that, as is the President.

Q -- to knock down the Dornan provision? Aside from taking a hands off position, would the administration file a -- brief in support of the plaintiff? Would you join as a party in court, or would you just not appear at all?

MR. QUINN: We would certainly consider that. I'm not prepared today to give you a definitive answer to that, but nor will I rule it out.

Q As a practical matter, how many people are affected by this?

MR. QUINN: About a thousand. About a thousand.

Q If the court -- successful, would you make any promises to them that they would be rehired or accepted back into the military?

MR. QUINN: I'm sorry -- if the --

Q If you have to start discharging these people, then six months later, nine months later you win in court -- or, I'm sorry, plaintiff wins in court, are you going to make any kind of promises these people will be able to go back into the military?

MR. QUINN: I'm sure that we will do everything we can not only to keep these people in the military, but to reinstatement in the event that separation procedures are started.

MR. DELLINGER: Let me make one thing -- the statute provides that separation can take place at a period up to six

months. It says, as soon as practicable, but not later than the last day of the six months. So there is a six-month period of separation. So that there is not a requirement under the law that separation be immediate, given the practicalities of the military determination. So that will not take place.

MR. QUINN: Let me add to this point that no one will be separated until the last possible moment.

Q But could you explain -- you'll have a thousand people who will lose their jobs because of a provision that the President believes is unconstitutional. Why did he, therefore, decide to sign it?

MR. QUINN: There are ample good reasons why the President is in a position that he has to sign this bill in order -- we are going to do more on that, I guess, at a 2:00 p.m. briefing, laying out in some detail the many parts of this bill that really do impel the President to sign it.

Q Jack, does the consideration for dismissal begin immediately? And as that consideration is underway, there's this six-month lag time -- is that what you're telling us?

MR. QUINN: I'm telling you that the -- I hope this answers the question -- that the Secretary will undertake to set in motion procedures to effectuate this provision.

Q Immediately?

MR. QUINN: Immediately. That, we believe, will create the condition under which a lawsuit might appropriately be brought on behalf of the potentially affected military men and women.

Q So a lawsuit could be brought immediately if someone was under consideration for dismissal?

MR. QUINN: Yes.

Q And do you already have somebody picked out to do that?

MR. QUINN: No. We don't represent the plaintiffs in those cases.

Q How long would it take, ballpark, for it to work its way up through to the Supreme Court before we get an answer?

MR. QUINN: I don't know. It could take a good deal longer than six months before you get a final resolution of this. But bear in mind that that does not mean that in the meanwhile there will necessarily be a separation of these people from the military. It is entirely possible that a court will enjoin the separation of these people from the military pending final resolution.

What happens in a case like this is that a court will have to consider at some point early in the process the question whether an injunction should issue. Whether it should issue or not turns on the relative burdens that would be imposed on either side by granting or not granting, and on the important question of likelihood of success on the merits eventually. In our judgment -- and I think our having taken the position we do contributes to this outcome -- the likelihood is that a court will see at an early point in time that the plaintiffs in these cases have a very high likelihood of success on the merits. That being the case, combined with the fact that their discharge would work a real injustice and burden on them, it well may be that any such separations will be enjoined. But we'll just have to see how that plays out.

Q Jack, there have been cases where military people were discharged from the service as incapable of performing service, highly decorated people, because war wounds created a disability. I think, if not mistaken, one case in point was Jim Webb who went on to become Navy Secretary. How are people who are separated because war wounds disabled them different? I think you're establishing a double standard here.

MR. QUINN: Not at all. Not at all. They, in fact -- on the contrary. It is the judgment of General Shalikashvili and Secretary Perry that each and every one of these people is able to perform his or her military duty.

Q What is the current policy for someone who is not -- who is diagnosed with AIDS as opposed to HIV-positive?

MR. QUINN: If they meet the standards, if a person has AIDS and meets the standard of medical disability for a separation, they are separated on the same basis of everyone else who meets the -- I believe it's a 30-percent disability standard or some other disability standard. It's the same standard regardless of the condition.

The group of people that are affected by this law are people who are not medically disabled; that is, they're healthy individuals performing their tasks. Anyone who is medically

disabled, whatever the cost, is transferred on the same basis, whether it is AIDS -- these are people who have at this point -- it includes people who are only tested as being positive for the HIV virus.

Q And diagnosis of AIDS renders them medically disabled?

MR. DELLINGER: It subjects them to the same standards of disability, depending on what the actual disability is. All conditions, what the military looks to in those instances of discharge, is what someone's condition is, regardless of its cause.

Q What's the practice with people with AIDS? Are they discharged or not?

MR. DELLINGER: I assume they're treated under the same medical disability as others. But that's a question for the Defense Department.

Q You keep saying that, but you can't -- that doesn't answer the question. Do you know what happens to them?

MR. DELLINGER: Mike will check it for you. I'm sure that's right.

THE PRESS: Thank you.

END

2:03 P.M. EST

THE WHITE HOUSE
Office of the Press Secretary

For Immediate Release

February 9, 1996

February 9, 1996

MEMORANDUM FOR THE SECRETARY OF DEFENSE
THE SECRETARY OF TRANSPORTATION
THE SECRETARY OF VETERANS AFFAIRS

SUBJECT: Benefits for Military Personnel
Involuntarily Separated from the Armed
Services as a Result of HIV

The National Defense Authorization Act for Fiscal Year 1996 (S. 1124) contains a provision I strongly oppose, which requires the discharge of all military personnel living with the Human Immunodeficiency Virus (HIV), regardless of whether there is any medical necessity for such discharge. This provision is clearly discriminatory and wholly unwarranted. It is also highly punitive. Service members discharged pursuant to this provision would not receive the benefits to which they would otherwise be entitled had they continued to serve until it became medically necessary for them to retire.

Consequently, I will give my full support to legislative efforts to repeal this provision.

In the meantime, I am committed to ensuring full benefits to these service members and their families to ameliorate the unfair burden this legislation will place on them. I am therefore directing you, in consultation with the Office of Management and Budget and such other agencies as may be appropriate, to take all necessary steps, consistent with applicable law, to ensure that these service members and their families receive the full benefits they are entitled to, including, among other things, disability retirement pay, health care coverage for their families, and transition benefits such as vocational education.

This memorandum is for the internal management of the executive branch and does not create any right or benefit, substantive or procedural, enforceable by any party against the United States,

its agencies or instrumentalities, its officers or employees,
or any person.

WILLIAM J. CLINTON

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NSC/RMO PROFILE

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DEFENSE BUDGET

PERSONS:

SUBJECT: LTR EXPRESSING DISSAPPOINTMENT W / PRES INTENTION TO SIGN S 1124 -
REQUIRING DISCHARGE OF SERVICE MEMBERS W / HIV

ACTION: PREPARE MEMO FOR LAKE

DUE DATE: 31 JAN 96 STATUS: S

STAFF OFFICER: BELL

LOGREF:

FILES: WH

NSCP:

CODES:

D O C U M E N T D I S T R I B U T I O N

FOR ACTION
BELL

FOR CONCURRENCE
SEATON
SESTAK

FOR INFO
DANVERS

COMMENTS: _____

DISPATCHED BY _____ DATE _____ BY HAND W/ATTCH

OPENED BY: NSLA

CLOSED BY:

DOC 1 OF 1

UNCLASSIFIED

THURSDAY, February 15, 1996

At Presstime**Yeltsin wants Chechen rebel Chief Dudayev executed**

YEKATERINBURG, Russia, Feb 15 (Reuters) - President Boris Yeltsin said today that separatist Chechen leader Dzhokhar Dudayev and the Commanders of two Chechen hostage-taking raids should be handed over to Russian authorities and executed.

"We will ask for the leaders — Dudayev, (Shamil) Basayev and (Salman) Raduyev to be handed over to us. They should be shot," Interfax news agency quoted Yeltsin as saying during a visit to Yekaterinburg in the Ural mountains.

Sri Lankan soldiers held over eastern massacre

COLOMBO, Feb 15 (Reuters) - Sri Lankan authorities probing the killing of 24 Tamil civilians have taken some military personnel into custody on suspicion of being involved in the massacre, the defence ministry said today.

"At present, police investigations are in progress and eye-witness accounts suggest the possibility of military personnel being involved," said a statement by the ministry, dated February 14 but faxed to Reuters today.

N. Korean intruder shot dead in Russian mission

MOSCOW, Feb 15 (Reuters) - A North Korean sergeant who killed three guards when he forced his way into the Russian embassy compound in Pyongyang to demand political asylum was shot dead today, Russia's Itar-Tass news agency said.

Tass reported from the North Korean capital that the gunman, who burst into the embassy's trade mission yesterday, was apparently killed by a single bullet to the head.

(Complete wire copy available at CNARS)

The Current News *Early Bird*, Supplement, and Radio-TV Defense Dialog are now available at www.dtic.dia.mil/ebird. Read detailed instructions on the *Early Bird* "home page" or call the Defense Technical Information Center for information (703-767-6000, DSN 427-8000). These electronic publications cannot be made available to any addresses other than DoD and .mil sites.

WASHINGTON POST

Feb. 15, 1996 Pg. 7

Military HIV Ban Defended by Gingrich

House Speaker Newt Gingrich (R-Ga.) criticized President Clinton and basketball star Earvin "Magic" Johnson yesterday for advocating repeal of a measure that requires the military to discharge service members who have the AIDS virus, saying they don't understand combat.

But Gingrich, who obtained deferments to avoid military service in the 1960s, appears not to understand Pentagon policy, which prohibits those who test positive for HIV, the virus that causes AIDS, from being sent into combat.

"No one who has ever studied seriously how bad combat can get wants to have a person in your unit who's HIV-positive because you have a very real danger of transferring blood," Reuter quoted Gingrich telling reporters after a speech in his suburban Atlanta district.

Gingrich was responding to a question about a letter Johnson sent him and Senate Majority Leader Robert J. Dole (R-Kan.) asking them to support Clinton's efforts to repeal a provision of the Pentagon budget bill the president signed into law last week. Johnson retired from the National Basketball Association in 1991 after disclosing that he had HIV and returned to the Los Angeles Lakers this month.

Under the new provision, service members with HIV would be discharged within six months and would lose their disability or retirement benefits and medical coverage for dependents.

"What Magic Johnson doesn't understand is the nature of being in the military and the danger of being in combat," said Gingrich, who criticized Clinton for seeking repeal of the provision. "It is a totally irresponsible position for the administration to take. It's a sign of how little President Clinton understands combat and the difficulties of being able to deal with these kinds of dangers."

—John E. Yang

WASHINGTON POST

Feb. 15, 1996

Pg. 20

Bomb Explodes In Auto Near Bahrain Market

Reuter

MANAMA, Bahrain, Feb. 14—A bomb exploded, apparently prematurely, today in a car parked near a Bahrain marketplace. It was the Persian Gulf island's second blast in four days and fourth since Dec. 31, a government official said. No casualties were reported.

The official said the car might have been carrying explosives intended for use elsewhere. "Explosive material, a timing device, tubes and two gasoline containers were found in the car," he said.

The explosion was the second this week and the fourth in Bahrain, the gulf's main banking and financial center, since a percussion bomb exploded at a commercial complex in Manama, the capital, on Dec. 31.

A bomb ripped through the luxury Diplomat hotel Sunday, wounding three people. Officials blamed "terrorists" aiming to destabilize Bahrain's security and hit its tourism industry.

No one has claimed responsibility for Sunday's explosion, the second at a luxury hotel in a month. On Jan. 17 a bomb exploded at Le Royal Meridien hotel, where international oil industry executives were gathered for a conference. It caused no injuries.

Anti-government protests resumed last month after a lull of eight months. They began in December 1994 when a Shiite Muslim cleric, Sheik Ali Salman, was arrested for distributing leaflets urging restoration of the elected parliament, which was dissolved in 1975. He was deported.

WALL STREET JOURNAL

Feb. 15, 1996

Pg. 14

Asides**The Bosnia Issue**

Four Senators, led by Bob Dole, are raising pertinent questions about the Clinton Administration's Bosnia policy. Mr. Dole and Senators Hatch, Helms and Lieberman have sent a letter objecting to the news that Serb

leader Radovan Karadzic, indicted for war crimes, was allowed to pass through NATO and U.S. checkpoints. Assistant Secretary of State Robert L. Gallucci says, "The apprehension of indicted individuals is not a mission requirement." So in effect, we're protecting them.

THURSDAY, February 15, 1996

BALTIMORE SUN

Feb. 15, 1996

Pg. 18

Clinton China quandary: The beauty is the beast

How much longer can he ignore Beijing's violations on trade, arms, rights?

By MARK MATTHEWS
SUN NATIONAL STAFF

WASHINGTON — Bill Clinton confronts a dangerous quandary in dealing with China against the backdrop of war threats this week in the Taiwan Strait.

How does he get China to stop saber rattling and deal with its trade violations and exports of dangerous weapons without hurting U.S. business or harming himself politically?

American intelligence officials believe Beijing has sold ring magnets to Pakistan, boasting that country's ability to produce nuclear weapons, and of selling missile guidance systems to Iran.

Not only would these sales violate international rules on proliferation of dangerous weapons, but they are seen to fuel instability in two of the world's most combustible hot spots: the Middle East and South Asia.

The administration also accuses Chinese producers of flagrantly violating trade agreements with the piracy of copyrighted American recordings, such as compact discs, video recordings and computer software.

More than just these two transgressions is at stake, administration officials say: With 1.2 billion people and a rapidly growing economy, China is the world's next superpower.

The United States needs it to be predictable and to play by acceptable international norms.

Defense Secretary William J. Perry put it bluntly this week:

"Our policy accepts China at its word when it says that it wants to become a responsible world power. But China sends quite the opposite message when it conducts missile tests and large military maneuvers off Taiwan, when it exports nuclear weapons technology or abuses human rights."

President Clinton has the power to punish China severely, by imposing commercial sanctions valued at up to \$10 billion. But since trade is a two-way street, he can't

punish China without causing pain to American companies and U.S. workers in an election year.

'Moral principle counts'

Sensitive to the charge that President Clinton's foreign policy is largely driven by commerce, an administration official insisted yesterday, "Moral principle counts every bit as much as trade and jobs."

Mr. Clinton's top foreign policy advisers failed in a meeting earlier this week to arrive at a strategy. While another meeting may be held next week, the administration official said a resolution could be several weeks off.

Setting aside the trade and political consequences, the advisers need to weigh two questions, the official said: How tough do they have to be to get China's attention? If they're too tough, do they invite a backlash?

Complicating the problem, officials say, is some ambiguity in the evidence of weapons violations, with hard-liners at the Pentagon and Central Intelligence Agency disagreeing with the State Department.

President Clinton has the option of using his authority to waive penalties in the case of the weapons transfers even if the evidence is solid. But if precedent is any guide, this may not win him any points with Beijing.

Faced with a similar dilemma two years ago, Mr. Clinton decided against punishing China for its human rights abuses by cutting back on its favorable trade privileges.

Human rights violations have persisted, including the use of prison labor to produce exports.

The latest flare-up between the United States and China comes just as Clinton administration officials were catching their breath after the last nasty episode between the two countries.

That occurred when China, furious over signs of an American "tilt" toward Taiwan, downgraded diplomatic relations last summer between Washington and Beijing.

It took a summit between President Clinton and Chinese President Jiang Zemin to repair that damage, thus finally allowing former Sen. Jim Sasser — after months of delay — to take up his post as the new U.S. ambassador

to Beijing this week.

Even more than most presidents, Mr. Clinton is constrained in his policy toward China by growing pressure from Congress.

Most likely, the eventual Republican presidential nominee will only add to this pressure.

GOP's pro-Taiwan bloc

While neither American political party has a unified policy toward China, the Congressional Republican leadership has increasingly become dominated by an anti-Chinese, pro-Taiwan bloc.

Last year, this bloc successfully pressured the Clinton administration into a policy shift toward Taiwan, allowing President Lee Teng-Hui to visit Cornell University.

Congress is making it increasingly difficult for President Clinton to overlook Chinese lapses on weapons proliferation and human rights.

Indeed, a number of House members of both parties have sent Mr. Clinton a letter demanding that the United States lead an effort at next month's meeting of the United Nations Human Rights Commission in Geneva "to condemn China's violations of internationally recognized human rights."

Some in Congress — including longtime China foe Jesse Helms of North Carolina, the Republican chairman of the Senate Foreign Relations Committee — want the administration to go beyond its recent vague warnings to China and commit itself publicly to Taiwan's defense.

There is also growing sentiment on Capitol Hill to grant Taiwan at least a measure of diplomatic standing, upsetting the delicate legal balance that now exists between the United States, China and Taiwan.

Charles W. Freeman Jr., a retired high-level U.S. diplomat with experience in China, warns that a deepening U.S.-China rift over Taiwan could "overthrow the entire Asian-Pacific strategic balance," not just poisoning U.S. relations with China but weakening the U.S.-Japan alliance and reigniting rivalry between China and Japan.

As Mr. Clinton has already learned, nothing he does regarding China will be cost free.

please call Lissa Muscatine
at 62935
w/Connecto

draft #3

**FIRST LADY HILLARY RODHAM CLINTON
COLUMN FOR PUBLICATION FEBRUARY 15, 1995
TALKING IT OVER/CREATORS SYNDICATE**

WAT
I recently learned about a Marine Corps instructor who has a lot in common with Magic Johnson. Like Magic, he has tested positive for HIV, the virus that causes AIDS. Like Magic, he has two small children. And like Magic, he is still healthy and feels he has a lot to give to his career and his country.

But unlike the Los Angeles Lakers superstar, whose recent return to professional basketball after a five-year absence has been widely publicized across our country, the instructor could be out of a job for good.

*Richard
Lambert*
Because of the Congress's decision to insert a provision in the new defense budget, all service members who have tested positive for HIV must be discharged within six months regardless of their ability to perform their jobs.

*except those
about to
retire*
Along with the Marine Corps sergeant, more than a thousand other military men and women are affected by this new policy. Half of them are married. Many have children to support. They include Gulf War veterans and others who have been commended for combat and for their work as military engineers, lawyers, secretaries, and computer programmers. On average, they have devoted 10 years of their lives military service.

There is no justification, military or otherwise, for singling out one group of service members for such unfair treatment. Just last week, the Chairman of the Joint Chiefs of Staff and the Secretary of Defense characterized this congressional policy as "unwarranted and unwise."

Discharging members of our Armed Forces who are trained and fit for duty would not only waste the government's investment in them, they said, it would "be disruptive to military programs in which they play an integral role."

The Marine Corps instructor I spoke of earlier has served for eleven years, first in the infantry and then training raw recruits for combat. He says his career in the military is the fulfillment of a lifelong dream. "I'm serving my country, which since I was a child was something I always wanted to do."

Now he's in danger of losing his home, his career, and his dreams before he loses his health. If the policy is not repealed, he and his wife will have to move with their young children back home with his parents. He will have to find a new job. "It would throw our world into chaos," he said.

Mostly, he is saddened and angry that some of our country's elected officials cling to outdated and prejudiced assumptions

about people with HIV, even as Magic Johnson proves them wrong. When Magic Johnson first tried to make a comeback in the NBA after announcing that he had tested positive for HIV, a number of players scorned him and said they didn't want to get near him on the court. This time, he was welcomed back.

"I think [Magic's comeback] proves to everyone out there that people can live with the disease," he said. "I feel I'm just as healthy as the Marine next to me. . . .Who's to say they won't find something to let me live another 10 years?"

Up until now, the military has treated HIV-positive service members in the same way it treats people who develop heart disease, asthma, or cancer. They can't serve overseas, aboard ships or in combat, but are allowed to continue working in other jobs until they become too ill.

That will still be the case if the President and our military leaders have their way. The President signed the defense budget when Congress passed it because it contained funding vital to our national defense and to the quality of life of the men and women in our armed forces. But he is working hard to repeal the HIV provision.

Last week, based on the statement issued by the Joint Chiefs the President said he believed the provision is unconstitutional

and ordered the Justice Department not to defend it if it is challenged in court. He also is making sure that if any military personnel are discharged, they will receive the full benefits service members are entitled to when they stop working due to illness or disability.

"I feel like I've served my country faithfully for all this time," the Marine instructor said. "I've stuck with it through thick and thin."

Whether or not this policy stands will reflect not only our values of fairness and compassion, but also our respect for the service our military men and women give to our country every day.

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THE WHITE HOUSE
WASHINGTON

OFFICE OF THE FIRST LADY

phone 202-456-²⁷⁷⁷~~6200~~
fax 202-456-6244DETERMINED TO BE AN ADMINISTRATIVE
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2007-1550-F

TO

Bob Bell

FROM

Sabrina Corlette / Lissa Muscatine

FAX #

6-9190

PHONE #

OF PAGES (including cover)

COMMENTS

URGENT + CONFIDENTIALPlease call Lissa Muscatine
at 6-2935 with
comments

NATIONAL SECURITY COUNCIL

February 7

Bob,

1. Attached is copy of bill introduced in House on HIV-provision repeal. I am told that there is no bill yet on Senate side, but the intention is to introduce the same exact bill as the House did (I gather that Kennedy's office is using the same bill language as the House when they go about eliciting Senatorial support).

2. During my conversation, I did find out about any concern with a "disabled" label being used with regard to those discharged. I was told that this had been a subject of discussion with representatives of those within the military service who are HIV-positive as well as outside AIDS groups. **These representatives were not opposed to the "disabled" description in order to ensure added benefits.**

3. Attached is compendium of what I have (and OMB -- I did not go further since I did not want to raise the issue's profile) of DoD on-the-record

NATIONAL SECURITY COUNCIL

statements regarding the HIV-provision.
As you can see, there is only one letter
from Dr. White which mentioned the issue
(and, for your information, two letters
sent by Dr. Perry on 15 December 1995
mention every item listed in the SAP
except the HIV-provision).

In short, there is not a strong on-the-
record compendium of written opposition
on the issue from DoD.

VR,
Joe

F:\M4\TORKIL\TORKIL030

H.L.C.

(Original signature of Member)

104TH CONGRESS
2D SESSION

H. R. _____

IN THE HOUSE OF REPRESENTATIVES

Mr. TORKILDSN (for himself, Ms. HARMAN, and Mr. DELLUMS) introduced
the following bill; which was referred to the Committee on

F:\M4\TORKIL\TORKIL.030

H.L.C.

2

1 of section 1177 of title 10, United States Code (and the
2 item relating to that section in the table of sections at
3 the beginning of chapter 59 of such title), as amended by
4 that section 567, are hereby amended so as to read as
5 in effect on the day before the date of the enactment of
6 that Act.

February 1, 1996 (2:09 p.m.)

DEFENSE STATEMENTS REGARDING HIV PROVISION IN DOD AUTHORIZATION
BILL

- June 13, 1995 **Statement of Administration Policy** -- "This bill requires military personnel who have HIV to be discharged. This decision should be based on the member's ability to perform his or her duties, not on a physical status."
- December 15, 1995 **Statement of Administration Policy** -- "...the Administration has serious concerns about the following:...provisions requiring the discharge of military personnel who are HIV-positive..."
- December 28, 1995 **Presidential Veto Statement** -- "H.R. 1530 also contains two provisions that would unfairly affect certain service members. One requires medically unwarranted discharge procedures for HIV-positive service members."
- January 18, 1996 **Letters from Deputy Secretary of Defense John White to Senator Thurmond and Nunn (SASC) and Representatives Spence and Dellums (HCONS)** -- "Section 567 stipulates special discharge procedures for HIV-positive servicemembers. As you know, DoD policy denies enlistment to anyone who tests positive for HIV, just as our policies exclude potential enlistees with other proscribed medical conditions. DoD policy also calls for r periodic screening of serving personnel. And as with other proscribed conditions, our policies permit personnel to continue to serve so long as they are able to perform their duties. This policy is both humane and good business practices, since the Department receives the benefit of the training and experience of these individuals. This basic policy applies to numerous illnesses, not just HIV. Section 567 would actually increase DoD costs by forcing us to recruit and train replacement military personnel even though HIV-positive individuals remain fully capable of fulfilling the mission for which they were trained."

Bob, (To add to HIV package I gave you)
Brian~~2~~ did find an oral
comment (pretty strong) on
HIV provision which
SECDEF said on 29 January
at Lackland AFB, TX. UN.
Dc

Q: How are you going to repair the image, Mr. Secretary: we've had the airplane incident, the "Tailhook", now the Okinawan thing. What is being done, other than what you mentioned, to improve the image of the American military man, of which Bosnia is good P.R. and all that. What can be done to improve this image of our American serviceman?

A: Let me say that the image of the American serviceman is really very good in most parts of the world. I'll tell you, just having come from Bosnia, it is very good in Bosnia and it's very good in the regions around Bosnia. The two very strong impressions I came from during my trip to Bosnia, relative to the U.S. military there is, first of all, the U.S. military is respected. There is no question about it. They are respected by all parties in the conflict. And, secondly, there's an admiration for the fact that the United States is coming there not for any material gain for our country, but to bring peace to that country. And, all of the parties in that conflict understand that. There's no question that the warring parties would not have signed that peace accord in Dayton, would not have agreed to undertake a peace there, without the presence of American soldiers. They have so much confidence in the U.S. military, in their competence and in their integrity. So, I, basically, reject the proposition that we have an image problem overseas. The U.S. military is both respected and admired. And, when we have an aberration like this case, we have to work to deal with it. Yes?

Q: President Clinton had announced, fairly recently, about the handling of HIV-infected people in the military. Has there been anything new on that? How is that going to be dealt with?

A: In the defense authorization bill, which was just passed by the Congress, there is a requirement that with anyone who tests HIV-positive, will be separated from the service within six months. I believe, and the President believes, that that is a poor provision. It is a mistake to have that in the bill. We believe that, because it's part of a larger policy of allowing people to stay in the service as long as they can perform their jobs. It's not just a question of HIV. This is the policy of the military for all kinds of ailments, illnesses, and inflections. We have military personnel that lost a leg in Vietnam, for example, that have gone on to become four-star generals and have served bravely in DESERT STORM operations. So, we do not simply retire someone because they have a disability. That's the principle. It's an important principle. So, the President has indicated that he is not -- he does not agree with that provision in the bill, and he has asked me to find ways to see if I can find specific ways of getting that particular provision

changed. And, we will try. We will consider the proposals -- specific legislation directed at removing that provision.

Q: Is that a witch hunt?

A: I have not given up on this by any means. I intend to fight this.

Q: Secretary, American forces have been lucky, so far, in Bosnia -- I believe only one sniper incident. But, there's other reports surfacing of other NATO forces being killed by mines over there. Any concern about that having a backlash as far as people saying, "I told you so"?

A: I do not believe the American forces have been lucky. I think they have -- their training, their skill, professionalism has paid off. Having said that, we realize we're in a situation with many dangers. When we went over there, we thought we might very well run into the danger -- we might very well have the danger of running into organized opposition. It's clear, now -- we've been there for over a month -- there's not going to be organized opposition. The three warring parties have stopped fighting. They've laid down their arms and are beginning to demobilize. Had they been planning to provide organized resistance to the NATO forces, the time to have done that would have been the first month, while they were building up and while they were most vulnerable. So, I think, we can write-off that danger now.

The second danger is the danger that there will be accidents -- vehicle accidents, in particular, accidents with mines. That danger will be with us all the time we are there. There are millions of mines in the country. We're dealing with that two different ways. We, and the warring parties, are removing those mines. They have given us charts and maps where they think the mines are located. They are busy removing them. We're busy removing them. But, secondly, no matter how careful -- no matter how diligent we are in removing them, we're never going to get them all. And so, secondly, discipline is important. And, before our troops went down there, they spent weeks training, specifically, for the Bosnian operation and every replacement troop that goes in there has to go through that training before it can go in. And, a key part of that training is mine awareness, mine discipline. So, we will be there for another, roughly, 10 or 11 months. We will run into mines again. But, our discipline will minimize the danger to our troops.

I think the biggest danger from the mines will be towards the end of our deployment period -- if we go many months without an accident, we may

Date: 02/09/96 Time: 16:06

AClinton Says AIDS Provision Unconstitutional

WASHINGTON (AP) President Clinton today said legislation requiring the discharge of military personnel with the AIDS virus is unconstitutional and ordered the Justice Department not to defend it in court.

At the same time, the administration said it might be compelled to enforce the provision.

It is part of a \$265 billion 1996 defense authorization bill that Congress passed last month. Clinton plans to sign the measure Saturday because of, the administration says, its importance to the nation's defense.

But the president began a campaign today to repeal the provision that requires the discharge of AIDS-infected soldiers. Jack Quinn, the top White House attorney, said Clinton believes the provision is "completely abhorrent and offensive."

The law requires that members of the military who test positive for HIV, the virus that causes AIDS, be discharged within six months. The administration said it would welcome a court test of the provision but would be required to enforce it unless it is struck down. Even so, Quinn said, "No one will be separated until the last possible moment."

The administration has opposed the provision from the start and announced last month that it would try to repeal it. Today's announcement was the first time Clinton has said he thinks the provision is unconstitutional.

Clinton also threw his support behind a bill before Congress that would repeal the AIDS provision. He also ordered the Pentagon and the Department of Veteran's Affairs to "take all steps" to ensure full benefits to any military personnel discharged in the meantime.

"This was a momentous step toward fairness. What the administration did today clearly demonstrates the administration's firm commitment to overturning this heinous measure," said Kim Mills, spokeswoman for the Human Rights Campaign, a gay and lesbian political organization.

In a joint statement, Defense Secretary William Perry and Gen. John Shalikashvili, chairman of the Joint Chiefs of Staff, said to discharge HIV-infected service members who are deemed fit to perform their duties would be "unwarranted and unwise."

Perry and Shalikashvili said the HIV provision is unnecessary as a matter of military policy because there already is in place a physical evaluation system that determines the fitness for duty of HIV-positive personnel.

"Discharging service members deemed fit for duty would waste the government's investment in the training of these individuals and be disruptive to the military programs in which they play an integral role," the statement said.

Although Clinton decided against vetoing the bill, his position today puts him squarely at odds with Congress, which easily passed the legislation.

White House officials predicted the AIDS provision will be challenged almost immediately after it takes effect. They said military personnel with the virus may be allowed to retain their jobs during the court battle.

Clinton also faces criticism for his expected signing of the bill. Gay rights groups, a key Democratic constituency, strongly oppose the provision and lobbied the White House to fight it.

*Bob 4th news
fitted on HEV/
D&D!*

*VR,
Joe*

Quinn said there is some precedent for a president ordering the Justice Department not to defend a law or part of a law.

Officials said the AIDS provision effects about 1,000 military personnel.

The Defense Department has said that 1,049 male and female service members would have to be discharged within six months under the terms of the bill. Clinton has agreed to sign the defense bill because of other provisions he supports, including a 2.4 percent military pay raise and funding to improve barracks.

AIDS activists had challenged the White House assertion that service members who leave on "involuntary discharge" because they carry the HIV virus will get the same medical benefits as others who retire from the military or leave on medical discharges.

APNP-02-09-96 1608EST

Date: 02/09/96 Time: 15:53
TAuthorization Bill (1 of 3)

To: National Desk

Contact: White House Press Office, 202-456-2100

WASHINGTON, Feb. 9 /U.S. Newswire/ -- Following is a transcript of remarks by Counsel to the President Jack Quinn and Assistant Attorney General Walter Dellinger in a White House briefing today on the HIV provision of the Defense Authorization Bill (1 of 3):

The Briefing Room

1:41 P.M. EST

MR. MCCURRY: Good afternoon, everyone. I apologize for the delay, but I wanted to be in a position to report to you on several decisions the President has just taken.

As you know, the President is expected to render final judgment tomorrow on the FY 1996 Defense Authorization bill. More on that subject -- much more later. But there was a provision of that bill that was of very great concern to the administration. The President's just made decisions concerning the legality of that provision; also signed a directive related to how the Executive Branch will cope with the consequences of that provision. What I'd like to do is ask legal counsel Jack Quinn to talk about the decisions the President has just taken. With him is Assistant Attorney General Walter Dellinger. And it is a great honor to turn the podium over to my colleague, Jack.

MR. QUINN: Thank you, Michael.

Thank you and good afternoon. As Mike indicated, we anticipate that tomorrow the President will sign the Department of Defense Authorization bill. As you also know, the President's indicated previously that there's a provision in that bill that he finds completely abhorrent and offensive -- the Dornan Amendment, which would require the Armed Forces to toss out of the military everyone who is HIV positive, no matter what the cause of that affliction, and despite the fact that these people are physically and medically able to perform their military duties.

This provision of the bill, in the President's judgment, is mean-spirited and serves no purpose other than to punish people who deserve this government's help, not its hatred.

The President's response to this provision is three parts. First, we will vigorously support the Kennedy-Cohen legislation which we anticipate will soon be introduced to repeal the Dornan Amendment. The President calls upon Congress to act swiftly on this legislation and pass it.

The second, the President has determined that this provision is unconstitutional. He's, therefore, directed the Attorney General not to defend it in court. The President has been informed in this regard by the Department of Defense that in its judgment the Dornan Amendment serves no legitimate military purpose; that it is arbitrary, unwarranted, and unwise.

If I may, I'd like to read a portion of the joint statement which the President received on this recently from Secretary Perry and Chairman of the Joint Chiefs Shalikashvili. It reads in pertinent part as follows:

"To discharge all of these service members arbitrarily, as Section 567 mandates, would be both unwarranted and unwise. Section 567 is unnecessary as a matter of sound military policy because there is already in place a physical evaluation system to determine the fitness for duty of HIV positive personnel. Discharging service members deemed fit for duty would waste the government's investment

in the training of these individuals and be disruptive to the military programs in which they play an integral role.

"This provision violates a standard traditionally used by the services for retention and, thus, undermines a fair policy of evaluating retention on medical and service issues on an individual basis.

Based on this advice from the Department of Defense and Joint Chiefs of Staff, and after consulting with the Department of Justice about the legal effect of that advice, the President concluded that the Dornan Amendment is unconstitutional. It arbitrarily discriminates and violates all notions of equal protection. Again, at the direction of the President, the Attorney General and the Department of Justice will decline to defend this provision in court. If the Congress chooses to defend this treatment of men and women in the military, it may do so. But this administration will not.

Finally, we hope that no service member will be discharged under this provision if Congress does what it should and repeals it. But in case that does not happen quickly enough, the President is directing the Departments of Defense and Veterans Affairs, as well as the Department of Transportation, which is responsible for the Coast Guard, to take all necessary steps to ensure that separated service members and their families will get the full measure of benefits that they should, including disability retirement pay, health coverage for their families, and transition benefits such as job training.

We'll be happy to take questions, but I'd like to invite Assistant Attorney General Dellinger to add to my statement.

MR. DELLINGER: We advised the President that this provision, which discriminates against a group of healthy and productive members of the Armed Services, would be constitutional only if it serves a legitimate governmental purpose. After consulting with Secretary Perry and the Joint Chiefs, the President concluded that the provision does not serve any valid military or other purpose. Based on the Pentagon's military conclusion, and after consulting with the Department of Justice about the legal effect of those conclusions, the President appropriately determined that the provision is unconstitutional and that the Department of Justice should not defend its constitutionality in any litigation.

We'd be happy to answer questions.

MR. QUINN: May I just add -- Mike reminds me that copies of the statement by Secretary Perry and General Shalikashvili, as well as the directive I alluded to, will be available to you in a few minutes.

Q Did the President have the opportunity to tell the Defense Department not to enforce the law if he finds it unconstitutional?

MR. QUINN: We discussed that matter. I'm going to ask Walter to elaborate on it. There are ample reasons why we're not in a position to direct the Secretary of Defense not to enforce it. What it boils down to, frankly, is that we don't have the benefit of a prior judicial determination to the effect that this provision is unconstitutional, and in circumstances where you don't have the benefit of such a prior judicial holding, it's appropriate and necessary to enforce it. Among other things, by setting in motion enforcement of this policy, that is how we will get a case moving, the ultimate result of which, of course, we believe firmly will be for the courts to strike this down as unconstitutional.

Q Will that be tomorrow, immediately after --

MR. DELLINGER: Let me add one point to that, Ms. Thomas. When the President's obligation to execute laws enacted by Congress is

in tension with his responsibility to act in accordance with the Constitution, questions arise that really go to the very heart of the system. And the President can decline to comply with the law, in our view, only where there is a judgment that the Supreme Court has resolved the issue. And here the courts have not had an opportunity to resolve it, and the action the President is taking, if the leadership of the House and Senate choose to defend this provision, will ensure that the courts are presented with a full range of argument in making their determination.

Q How long will that take?

Q Is there a particular case you will rely on in your judgment that this is unconstitutional, or is it just some reading you're making of the Constitution as written?

MR. QUINN: We are going to rely upon the judgment that the President has made in consultation with the Joint Chiefs and the Secretary of Defense that this provision serves no valid military purpose. And if that is the case and that is their determination, we'll present that determination. That is the basis of the President's decision that the Department will not defend the constitutionality of this provision.

Q That phraseology itself suggests that there must be some body of case law that derives from this that you would cite as an example.

MR. QUINN: In cases like this where you have a discrimination worked on the face of a statute, the question the courts ask is, is there a rational basis for this discrimination? Does it serve some valid, legitimate, rational government objective? The people to whom that question is properly put by the President are the Secretary of Defense and the Chamber of the Joint Chiefs. They've indicated to the President that, in fact, no, this provision does not pass that test. It does not serve a valid military purpose, and, in fact, according the statement I just read you, it is detrimental to the military mission.

Q There must be some cases where that's been found an applicable standard, though. There must be --

MR. QUINN: There are a ton of cases, yes. There are a ton of cases, absolutely. Absolutely.

(more, more)

-0-

/U.S. Newswire 202-347-2770/

APNP-02-09-96 1555EST

S. 1124

passed Senate January 26

(Dec 28 veto)

HIV -

- 1150 out of 1.4M

- .0%

- ~~20%~~ 20% total non-deployables (6000)
(others: asthma, heart disease, diabetes)

NATO Infrastructure

\$179M request

\$161M auth

Bill is \$7.1B over request

~~\$253.3M~~ \$264.7B (BA)

Feb 9th

H10 outz Panetta, Stern, Quinn, GS, MMCM

- (1) POTUS Funding - unconst - will not defend
- (2) support Kennedy - Cohen
- (3) POTUS direct DoD, VA + CG to determine ways (take all nec steps to ensure people + families will get full benefits entitled to under current law) inc disability ^{retirement} pay, healthcare + tax

to be signed
SAT

pending full making to mod disability rating
schedule to give HIV a 30% rating

DRAFT

Talking Points on President's Response to HIV Provision
(t. stern/2-7-96)

President's Response to HIV provision. In addition to stating that he firmly opposes this provision, the President will do the following:

- **Legal --** [In his signing statement, the President will state that he believes the provision violates the Equal Protection Clause of the Constitution and that, consequently, the Administration will not defend the provision against a constitutional challenge. -- CHECK WITH JACK QUINN]
- **Legislative --** The President will vigorously support efforts to repeal the legislation.
- **Executive action --** The President will direct the Secretaries of Defense, the Veterans Administration, and Transportation to take all necessary steps to ensure that these service members and their families receive the full benefits they are entitled to, including, among other things, disability retirement pay, health care coverage for their families, and transition benefits such as vocational education.

Background on the HIV provision. The HIV provision in the Defense Authorization bill requires the discharge within six months of military personnel who are HIV-positive, even where such discharge is medically unwarranted. Discharged members will retain health insurance for themselves, but will lose other critical benefits such as: (i) health insurance for their families; (ii) disability retirement pay; and (iii) certain transition benefits such as vocational education.

It is the current policy of our Defense Department to submit those who wish to join the armed forces to HIV testing and to deny admission to anyone who tests positive. But it is *not* our policy to discharge serving members of the armed forces who are HIV-positive and whose discharge is not medically required.

Human interest. There are 1049 people who would be affected by this provision. On average, they have served 10 years in the military. About 50% are married, many with children; about 50% are single.

DRAFT

**MEMORANDUM FOR THE SECRETARY OF DEFENSE
THE SECRETARY OF VETERANS AFFAIRS
THE SECRETARY OF TRANSPORTATION**

SUBJECT: Benefits for Military Personnel Involuntarily Separated from the Armed Services As a Result of HIV

The National Defense Authorization Act for Fiscal Year 1996 (S. 1124) contains a provision I strongly oppose, which requires the discharge of all military personnel living with the Human Immunodeficiency Virus (HIV), regardless of whether there is any medical necessity for such discharge. This provision is clearly discriminatory and wholly unwarranted. It is also highly punitive. Service members discharged pursuant to this provision will not receive the benefits to which they would otherwise be entitled had they continued to serve until it became medically necessary for them to retire.

Consequently, I will give my full support to legislative efforts to repeal this provision.

In the meantime, I am committed to ensuring full benefits to these service members and their families to ameliorate the unfair burden this legislation will place on them. I am therefore directing you, in consultation with the Office of Management and Budget and such other agencies as may be appropriate, to take all necessary steps, consistent with applicable law, to ensure that these service members and their families receive the full benefits they are entitled to, including, among other things, disability retirement pay, health care coverage for their families, and transition benefits such as vocational education.

This directive is for the internal management of the executive branch and does not create any right or benefit, substantive or procedural, enforceable by any party against the United States, its agencies or instrumentalities, its officers or employees, or any person.

NATIONAL SECURITY COUNCIL

Bob,

So far, these are
the only TPs which
the AIDS / DPC ~~trust~~
intend to use for
signing (+ what they
are using now). I will
recheck this A.M.

W.
Joe

DISCHARGE OF HIV-POSITIVE MILITARY PERSONNEL

Background

The President intends to sign the conference agreement on S.1124, the National Defense Authorization Act. The legislation includes important reforms in military acquisition rules, an increase in pay for military personnel, and other issues vital to the national interest. It also contains a provision, opposed by the President, requiring the retirement or discharge of personnel who are HIV-positive.

Key Points

- * The President and his Administration have vigorously opposed this provision. The President cited it as one of the reasons for his veto of the earlier version of this legislation.

This provision is deeply offensive. It flies in the face of medical advice and singles out one group of Americans for differential treatment and discrimination. [There is no valid military purpose to this provision.]

These men and women are willing and able to continue serving their nation. This provision is an insult to their commitment. They have served an average of 10 years in the Armed Forces and all of them volunteered to serve their country.

- * During the negotiations over the revised version of the legislation, the Administration aggressively sought to have this provision omitted from the final legislation. Sadly, these efforts were not successful.
- * The Administration intends to take steps to mitigate the effect of the legislation on the men and women of the Armed Forces who would be adversely affected by this legislation:
 - The Administration will work closely with a members of Congress from both parties to pursue legislation to reverse this policy before it takes effect in six months.
 - The Office of National AIDS Policy, the Department of Defense, and the Department of Veterans' Affairs are working to identify all possible benefits that can be provided to these individuals and their families to ameliorate the effects of this legislation.

Bell, Robert G.

From: Sestak, Joseph A.
To: Bell, Robert G.
Cc: /R, Record at A1; Seaton, James B.
Subject: BUdget Odds
Date: Tuesday, February 06, 1996 5:55PM

Bob, to follow up on some of your questions today, and 1-2 other issues:

1. OMB said that with regard to the 991 million inflation reprogramming request, the SAC will be the first out of the shoot, perhaps by Friday. The HAC said they are waiting for the HCONS to act first, and OMB is unsure what the status is with the SASC. I spoke with someone I know on the HAC who said that they didn't see a problem with it.

2. OMB did NOT receive the final 820 million rescission/supplemental NRO package from DoD today; probably tomorrow.

3. There IS more inflation savings for FY 96 still to be had because of the revised inflation figures issued January 22. I am told that it amounts to \$1 billion dollars. The present thinking is to permit DoD to keep the savings (since it is so far into the FY and the services are planning for it); however, some of it might be used for the F-16 deal that Perry and King Hussein agreed to, as well as other matters not in the planned program.

4. OMB did NOT send its "passback" to DoD today. Probably tomorrow. Still "arguing" over amount of FY98-02 inflation savings (if any) DoD will be allowed to keep. Dr. White evidently has been discussing the matter with A. Rivlin; no final decision, but the betting is on DoD getting to keep some of the savings.

5. DoD Auth Bill: apparently, Senator Nunn still hasn't become a co-sponsor of free-standing HIV provision repeal bill (unsure exactly why). Todd Stern intends to distribute a final signing statement in next day or so, with signing on Thursday or Friday. Justice is preparing how to respond if asked if Justice will defend DoD in court if/when a suit is brought against Perry for implementing the provision. AIDS groups want POTUS to seek injunction via his Solicitor General to "stay" the implementation until.....The problem with the "stay" and NOT defending the provision, is that Justice does not feel provision is unconstitutional (however, Jack Quinn is looking seriously into how the "stay" might be done).

VA and DoD are still having a hard time coming up with specific implementing language for an EO/regulation which would permit those about to be discharged to be classified as "disabled" prior to discharge so that their dependents would also qualify for medical/dental benefits (i.e., Administration has been saying that these individuals are "able" and should remain in service; now taking an "opposite" position that they are "disabled" to receive additional benefits. The VA/DoD is not sure they can "think through" the correct "rationale" language for this "change" in time to have an EO/regulation ready for signing statement this week. Fallback for Patsy Flemming, et al, is to have TPs ready which describe to some detail what any general comment means that POTUS does make regarding his efforts to ensure that these individuals have appropriate benefits (could describe what form the EO might take, etc.)

Patsy Flemming says that a WH ceremony regarding the unfairness of the provision (before or after signing) is not a sure thing. Still working (although George S. did say at Panetta meeting that he would like to see it WITH Magic Johnson).

6. OMB knows nothing about a readiness memo which VCJCS might have sent to Congress to OMB, which the Army General mentioned in briefing today. vr, Joe

AIDS Action Council
1875 Connecticut Avenue, NW Suite 700
Washington, DC 20009
(202) 986-1300 / fax 986-1345

Bob Bell

0494

F A X M E M O R A N D U M

TO: Anthony Lake
FAX #: 456-9460
FROM: Mark Barnes
202/986-7300 ext.3011
DATE: January 26, 1996
RE: DoD HIV Provision

COMMENTS:

Attached is a copy of a letter expressing disappointment over the President's intention to sign S. 1124, the defense authorization bill conference report, which will require the discharge of service members with HIV, the virus that causes AIDS.

We continue to urge the President to veto this legislation.

If you experience difficulty in receiving this fax, please call 202/986-1300.

Confidentiality Note: The information contained in this facsimile message is legally privileged and confidential information intended only for the use of the addressee named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copy of this telecopy is strictly prohibited. If you have received this telecopy in error, please immediately notify us by telephone and return the original message to us at the address listed via the United States Postal Service. We will reimburse any costs you incur in notifying us and returning the message to us. Thank you.



January 26, 1996

The Honorable William Jefferson Clinton
The White House
Washington, D.C.

VIA FACSIMILE

Dear Mr. President:

On January 23, 1996, I wrote to you on behalf of AIDS Action Council, the Washington representative for 1,400 community based AIDS service and training organizations, requesting, respectfully, that you veto S. 1124, the defense authorization bill conference report, when it reached your desk. I now understand that this bill will reach your desk today, and that you will sign it.

As you may be aware, this legislation contains a blatantly discriminatory provision which will result in the immediate separation from the armed services of some 1,200 active military personnel living with HIV disease. Moreover, these individuals who have devoted many years of productive service to the nation's defense and continue to do so, will be discharged without the benefit of a military pension and without access to the quality health care they now enjoy. This provision singles out individuals solely on the basis of their HIV status, while other military personnel who live with other chronic illnesses will continue to be permitted to work as productive members of the military until their illness prevents them from doing so.

When this measure was initially passed by the Congress with this provision, you vetoed the bill and cited this provision among numerous others in your veto measure. Regrettably, Administration officials who represented you in negotiations with the Congress on a compromise measure appear not to have highlighted this provision as unacceptable to the White House. Other provisions of the vetoed measure identified by Administration representatives in the subsequent negotiations were deleted from the measure. Only a small number of Congressional principals on the defense authorization bill were strongly committed to the anti-HIV provision. We believe that if the White House had insisted on its omission, it much more likely have not made its way into the final conference report.

At this juncture, therefore, AIDS Action respectfully requests that you undertake a number of measures immediately in order to ameliorate, insofar as possible, the extremely harsh effects and the negative public policy consequences of this provision. These measures include:

1875
Connecticut Ave NW
Suite 700
Washington DC
20009
Fax 202 986 1345
Tel 202 986 1300

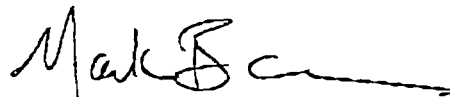
1. In your signing message, highlighting the utter absence of public policy or public health rationale for this exclusion of HIV-infected military personnel, and reiterate your strong personal opposition to it;
2. In your signing message, expressing your Administration's profound doubts, including those of your Justice Department, regarding the constitutionality of this provision, including its failure to treat HIV-infected military personnel in the same way that service members with other chronic illnesses are treated; and
3. In the event that this provision is implemented, treating these service members as medically discharged with 100 percent service-connected disability, and providing for those service members being discharged a package of full retirement and severance benefits, including:
 - o Job placements into Department of Defense and related civilian jobs commensurate with their experience, rank and seniority, with relocation and settlement expenses;
 - o Continuation of the same health, life and disability insurance benefits and quality of health care to which these service members and their dependents would be entitled if they were allowed to continue in active duty;
 - o Sensitive, immediately available transitional counseling for these affected personnel and their families regarding this provision and its consequences for them;
 - o Immediate vesting of any pensions or retirement funds to which these military personnel would be entitled had they been allowed to continue to serve until such pension or retirement funds would have vested; and
 - o To the extent allowed by this provision, offering of National Guard and/or Reserve placements to these service members, commensurate with their experience, rank and seniority.

Page Three
January 26, 1996

All in all, Mr. President, the enactment of this provision marks one of the darkest, saddest days in the history of the AIDS epidemic in this country. The message that is being sent to people living with HIV and their families is profound: namely, that they are not welcome in the workplace, in our communities, and in our nation -- that they are dispensable. Although we are deeply distressed that you appear to be poised to sign this bill, we ask respectfully that in doing so, you consider these ways of helping these patriotic Americans and their families. Finally, we ask that you signify your commitment to this issue by immediately working with Congress to draft and pass legislation reversing this appalling provision.

The families and communities affected by this epidemic need your help on these issues, and they await your response.

Respectfully,

A handwritten signature in black ink, appearing to read "Mark Barnes", with a long horizontal flourish extending to the right.

Mark Barnes
Executive Director

2/1/96

A: First of all, the defense authorization bill that contains this provision has not been signed. We expect that President Clinton will sign it next week. He objects strenuously to this provision and to a number of other provisions, but we think the provision that requires the discharge of military personnel who test HIV positive is operationally unnecessary, and we think it is harsh from a humane standpoint. We think it imposes a degree of micromanagement on commanders that is unwarranted. We also think it imposes a degree of pain and suffering on members of the military that is unwarranted. There was, I thought, a quite moving piece in the Washington Post today about a young sergeant who became HIV positive from her husband who was since deceased. Is a mother, has been in the military for ten years, and is fully able to perform her job. That's the point here. As long as people are able to perform their jobs under the current procedure, they're allowed to stay in the military. This would require them to get out within six months of the signing of the bill. Those are the reasons we oppose this.

We basically have several lines of defense. The first is, as you know, several members of Congress have also expressed outrage over this provision, and are going to introduce legislation seeking either to repeal this provision, or to provide certain types of support to the dependents of people who are thrown out of the military or perhaps support to the former military member, such as training. I do not believe that... I don't know whether pieces of legislation have been introduced, but you know that Senator Nunn has talked about a bill. I think Senator Kennedy has been talking about a bill, Senator Boxer, etc. So our first hope is a legislative remedy.

If that doesn't work, the Administration is also looking at a number of administrative remedies that perhaps could be implemented through executive order. I think it's premature now to discuss these in detail, but they would also involve providing some sort of support to dependents, perhaps training to people who are being thrown out of the service. It would be a comprehensive package, as comprehensive a package as we could design. But as I say, we hope there will be a legislative remedy.

Q: Having said that, is Secretary Perry going to recommend to the President that he sign the authorization?

A: Well, he already has. We've been through the history of this bill. As you know, the President vetoed the bill once, and there were a number of unacceptable parts of this bill initially that restricted the President's authority to assign troops, that would have required the building of a very costly ballistic missile system that we think might have sabotaged the arms control process, therefore inflicting much greater cost on the United States because right now the U.S. and Russia are making great progress in reducing the size of their arsenals.

So the most objectionable provisions of the bill were cured by Congress, and that's what allowed Secretary Perry to recommend that the President sign the bill, and the President to decide to sign the bill. Life is a series of compromises. There are provisions. This is an enormous bill. It deals with rules for spending, provisions for spending \$265 billion. There are a number of provisions in this bill that the Pentagon doesn't like.

There are also a number of very important provisions in the bill that we in the Administration wanted. Principally, is a full military pay raise. That is a pay raise this year of 2.4 percent versus the 2 percent the military would have gotten without the bill. There are provisions with the bill that allow us to move forward with our program to improve military housing, which is a central part of the quality of life program. There are also provisions in the bill which allow us to move forward with acquisition reform. As you know, acquisition reform is one of the ways we hope to achieve savings in the future, which will allow for more money to be put into research and development and procurement.

Q: Do you have a number on the number of people who have HIV?

A: Yes, as of December 15th, there were 1,049, I believe, people in the military who have tested HIV positive.

These people may remain in the military as long as they can perform their jobs. We've all seen recently, in watching Magic Johnson's decision to return to basketball, that people who have tested HIV positive are fully capable of carrying on near normal lives and performing their jobs, performing jobs that are quite strenuous.

Q: As it stands now, are they going to be out of service in six months?

A: That is what the bill provides and as I said earlier this week, we will have to obey the law.

Q: So the only way you would not get rid of them at this point is with new legislation, is that right?

A: That's basically correct. We're hoping there will be legislation that will either repeal or modify this provision. You may be able to predict what Congress will do on this or any other issue, but I can't.

Q: What restrictions, if any, now currently apply to HIV positive members of the armed services?

A: Basically, they cannot be deployed overseas, and they cannot be deployed into combat situations. But that leaves a wide variety of jobs that they can perform domestically.

UNCLASSIFIED
NSC/RMO PROFILE

RECORD ID: 9600639
RECEIVED: 01 FEB 96 15

TO: LAKE

FROM: RASCO, C

DOC DATE: 29 JAN 96
SOURCE REF:

KEYWORDS: DEFENSE POLICY

LEGAL ISSUES

PERSONS:

SUBJECT: DOD REAUTHORIZATION & AIDS ISSUES

ACTION: NOTED BY LAKE

DUE DATE: 05 FEB 96 STATUS: C

STAFF OFFICER: NONE

LOGREF:

FILES: WH

NSCP:

CODES:

D O C U M E N T D I S T R I B U T I O N

FOR ACTION

FOR CONCURRENCE

FOR INFO

BELL

NSC CHRON

COMMENTS: _____

DISPATCHED BY _____ DATE _____ BY HAND W/ATTCH

OPENED BY: NSDRS

CLOSED BY: NSDRS

DOC 1 OF 1

UNCLASSIFIED

UNCLASSIFIED
ACTION DATA SUMMARY REPORT

RECORD ID: 9600639

DOC ACTION OFFICER

CAO ASSIGNED ACTION REQUIRED

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X 96020115 NOTED BY LAKE

UNCLASSIFIED

National Security Council
The White House

PROOFED BY: _____

LOG # 0639

URGENT NOT PROOFED: _____

SYSTEM PRS NSC INT

BYPASSED WW DESK: _____

DOCLOG _____ A/O _____

	SEQUENCE TO	INITIAL/DATE	DISPOSITION
Harmon	_____	_____	_____
Dohse	_____	_____	_____
Sens	_____	_____	_____
Soderberg	_____	_____	_____
Berger	_____	_____	_____
Lake	_____	_____	_____
Situation Room	_____	_____	_____
West Wing Desk	_____	_____	_____
Records Mgt.	<u>1</u> _____	_____	_____
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*For RECORD
PURPOSES*

A = Action	I = Information	D = Dispatch	R = Retain	N = No Further Action
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cc:

COMMENTS:

Exec Sec Office has diskette _____

0639

THE WHITE HOUSE

WASHINGTON

January 29, 1996

Natl Sec Advisor
has seen

MEMORANDUM FOR TONY LAKE

FROM: CAROL H. RASCO *CHR*

SUBJECT: DoD Reauthorization and AIDS issues

In this morning's 7:30 a.m. meeting after you had to leave, I reported to Leon on work to date on the above referenced issue. He asked that I contact you and that we work together to lead a process for working on the matter with DoD, VA and appropriate White House departments.

I will be out Monday evening until Friday morning. I would ask that you have someone call Patsy Fleming to be briefed on the work today. The most immediate task is to have our staffs - Patsy and whomever you designate from the NSC - work with OMB on the signing statement. These staff members should then outline a process and tasks to be accomplished in this matter. I am very willing if needed to have a meeting on Friday to discuss work to date.

Thank you.

cc: Patsy Fleming
Jeremy Ben-Ami

WWD -
Pls file in NSC
system for
the record

THURSDAY, February 1, 1996

enough to enable an Air Force plane 200 miles away to strike it within one minute.

"We can make the operation of SAM sites the world's most dangerous occupation," Mr. McCall said.

- More powerful explosives. Besides being more accurate, munitions will be more powerful, per unit mass, by a factor of 10. Tiny bombs using just grams of explosive could destroy moving targets, even tanks or missile batteries.

- High-power microwave weapons. These would be used against electronics or computers, not people. Mr. McCall said a fighter pilot threatened by a hostile warplane could send microwave signals to confuse his opponent — perhaps by causing all of the other plane's warning lights and signals to come on.

- Drugs. Using what the "Vistas" report called "chemical intervention," the endurance and performance of pilots and other Air Force people can be enhanced. Chemical and other means can be found to reduce physical and psychological effects of jet lag, for example.

WALL STREET JOURNAL

February 1, 1996

Pg. 1/20

End to Controls On Satellite System Urged in Study

By JOHN J. FIALKA

Staff Reporter of THE WALL STREET JOURNAL
WASHINGTON — The Defense Department's \$10 billion global navigation system should be the "world's standard," and military controls that make it less accurate for civilians should be dropped, a significant new study recommends.

The Rand Corp. study, ordered up by the Clinton administration, urges a unified policy to promote use of the satellite-based system, known as the Global Positioning System, or GPS. The study supported the views of U.S. airlines, surveying companies, boaters and other users of GPS receivers, against those of the

Pentagon, which has restricted its signals on national-security grounds.

The recommendations from Rand are likely to influence a pending presidential directive on the future uses of the positioning system. The think tank rejected proposals that the U.S. should charge fees to GPS users and urged that it be kept under the control of the U.S. Air Force, which currently operates the system's 24 satellites.

The satellite-navigation industry, according to Rand, is likely to grow to \$8.5 billion a year from \$1 billion by the end of the century. One way to help a rapidly growing industry, the study concluded, would be to shut down a feature that makes GPS less accurate for civilian users.

Jim White, a spokesman for Magellan Systems Corp. of San Dimas, Calif., the leading manufacturer of GPS receivers, said that European customers have been skeptical about the long-term availability and precision of GPS.

NEW YORK TIMES

February 1, 1996

Pg. 20

Magic Shows the Way

Representative Robert Dornan of California and his benighted followers in Congress could learn a lot about AIDS and humanity and common sense by following the saga of Magic Johnson, one of the all-time great basketball players who has just returned to the National Basketball Association after a four-year exile caused by AIDS phobia.

Johnson retired from basketball in 1991 after becoming infected with the AIDS virus while still in his prime. A year later he tried to return but backed away when other players said they were afraid to play on the same court with him. They feared, with panic far exceeding the real risks, that they might contract the dreaded virus by colliding with him and somehow mingling his blood with theirs.

But a lot has happened in the past four years. Johnson has been playing exhibition games with no ill effects for anyone. The players have gradually learned that the chance of transmitting the AIDS virus on the basketball court is infinitesimal, and the N.B.A. has been pounding home that lesson through educational seminars. Whatever tiny risk exists can surely be contained by new N.B.A. rules that remove players from the game after a bleeding injury. So now Johnson has returned to the Los Angeles Lakers lineup and is receiving a heartening and heartwarming welcome — even from the players most outspoken in expressing their fears four years ago.

If only Congress could be so enlightened. The latest atrocity from the anti-AIDS bigots was a bill, fashioned by Mr. Dornan and approved as part of a

broad military funding bill by Congress, that will force out of the armed services all those infected with the virus that causes AIDS and deprive them of valuable benefits. More than 1,000 male and female service members who have the virus but are not yet sick (just as Magic Johnson is infected but not yet sick) will be drummed out even though they are perfectly able to perform their jobs. The Pentagon's current policy restricts their deployment overseas or in combat but allows them to remain on active duty as long as they are healthy.

The punitive nature of Mr. Dornan's bill is clear. He did not seek to expel the far larger group of service members who are chronically ill with cancer, asthma, heart disease or other ailments that restrict how they can be used. Instead he targeted only those infected with the AIDS virus, a group he once dismissed as "drug dealers, people who visited whorehouses or homosexuals."

The discharges are strongly opposed by the Pentagon, which believes its current policy is working just fine, and by Congress's most respected voice on military affairs, Senator Sam Nunn, who cites the investment in these service members that will be wasted by discharging them.

It is a shame that President Clinton feels obliged to sign the measure to get the funds he needs for military pay raises, housing and other programs. He owes it to fairness and common sense to seek new legislation reversing the discriminatory discharge policy. Magic Johnson, who scored an impressive 19 points, 10 assists and 8 rebounds in his opening game, knows better than Mr. Dornan that infection should not be a career-breaker.

THURSDAY, February 1, 1996

Haitians headed for Florida in the summer of 1994.

The Haitians crammed into rickety boats to flee the military dictatorship that ousted President Jean-Bertrand Aristide. And the Cubans fled Fidel Castro's Communist regime, taking to the treacherous Florida Straits in homemade rafts and boats. The Coast Guard had the job of plucking the refugees from the water.

Aristide was later restored to power, and most Haitians were denied political asylum. The last ones left the camp Nov. 1.

Only about 1,200 Cubans were repatriated from the camps, either because they had broken the law in Cuba or had broken camp rules.

The Clinton administration twice changed its long-standing open door policy toward Cubans—first in August 1994 when it ordered the Coast Guard to begin taking rafters to Guantanamo Bay, and then last May, when the administration announced it would take intercepted rafters back to Cuba and let those already at Guantanamo Bay enter the United States.

NEW YORK TIMES

February 1, 1996

Pg. 19

War Panel Criticizes Chemical Warnings

WASHINGTON, Jan. 31 (AP) — Military equipment to detect chemical agents during the war in the Persian Gulf was inadequate and unreliable, with no system to warn quickly of biological agents, a draft report on illnesses of veterans concludes.

The interim report by the Presidential Advisory Committee on Gulf War Veterans' Illnesses, which was obtained by The Associated Press, said chemical warfare detectors "suffered from a number of serious deficiencies," among them: they could not detect mustard agents, which Iraq possessed in large amounts; they measured only toxic

levels that could cause death or acute symptoms, and they produced an extremely high number of false alarms.

The 12-member committee was appointed by President Clinton last year to investigate the causes of and responses to sicknesses that afflicted thousands of people who served in the 1991 war, and held its fourth full meeting today. It is to release the interim report on Feb. 15 and complete its work by the end of this year.

The Pentagon and several Government health studies have found no evidence that Iraq used chemical or biological weapons against American forces. Veterans looking for a cause for their health problems have disputed that, pointing to the frequent sounding of alarms and reports of detection from allied troops.

WASHINGTON TIMES

February 1, 1996

Pg. 8

Air Force prepares for wild ride on way to the 21st century

ASSOCIATED PRESS

Unmanned bombers attack with laser beams instead of bombs. Hypersonic fighters soar into battle at 12 times the speed of sound. Microbombs kill tanks with mere grams of explosive. Information "munitions" seek out and confuse enemy computers.

These are scenes Air Force planners imagine as they peer into the 21st century.

The U.S. Air Force already is the most powerful in the world. What it wants now is to find ways to stay ahead, even as it gets smaller and money gets scarcer.

Some of the answers are sketched out in a 15-volume report, "New World Vistas," Air Force Secretary Sheila Widnall said yesterday. An advisory group of outside experts—mostly scientists and engineers—compiled the report at Mrs. Widnall's request.

"The changes will be as profound as those experienced by the Army in moving from horse to

tank or by the Navy in converting from sail to steam," the study says.

Mrs. Widnall said the Air Force is setting aside money to pursue these ideas, which apply to a broad range of Air Force activities from using smaller, more advanced satellites in space to developing better trained officers.

Prominent among the "Vistas" ideas: Use unmanned aircraft to do more than the spy missions they perform now; let them take the place of some combat planes. Guided from control centers inside the United States, robot planes could roam the world with laser weapons to destroy ground and air targets.

Although it goes against the grain of traditional Air Force people, the idea of pilotless combat aircraft has inherent advantages over manned warplanes.

Unmanned craft could be more survivable, for starters. Shape and function need not be constrained by a cockpit, a human body or an ejection seat.

Gene McCall, who directed the

"Vistas" project, told a Pentagon news conference an unmanned strike plane could be designed to accelerate at 20 times the force of gravity, or double what a pilot can withstand. With such speed of maneuver the unmanned plane could simply outfly a hostile missile, Mr. McCall said.

An unmanned bomber or fighter also could be stealthier, Mr. McCall said. The plane could be perfectly flat on the bottom, reducing vulnerability to radar detection. The landing gear could be on top rather than on the bottom, and a simple rollover maneuver—impossible with a human in the cockpit—would put it in landing position.

Small versions of the unmanned combat plane could be carried aboard and launched from large conventional aircraft—giving them truly global reach.

For all its promise, remotely piloted combat planes aren't likely to enter the Air Force for another 20 years or so, Mr. McCall said.

Even then, Mr. McCall said, pilots will not become extinct. "I don't think we're ever going to replace completely the manned aircraft," he said.

Among the other innovations foreseen for the early part of the 21st century:

- Hypersonic missiles. With on-board links to navigation satellites they not only will be faster but also more accurate. Mr. McCall said a one-second electronic emission from a hostile surface-to-air, or SAM, missile radar would be

X 26

Q If these amendments are adopted, the CR will have to go back to the House for further action. Doesn't that risk complicating the situation?

MR. MCCURRY: I certainly would not believe that it should. The White House believes that in both cases there would be reasons why the House might want to accept those measures. Certainly, on the question of the debt ceiling, adoption of that debt ceiling motion would likely be a pretty persuasive argument to the House that they should do likewise and provide the clean, straightforward one-year extension that's necessary.

The education funding, admittedly, might raise a more difficult debate, but we'll just have to see. Senator Daschle has given an assessment of what they think the likelihood of passage are of the two amendments; we'll just have to see how the day develops.

Q If and when he does sign this, Mike, what --

Q When did he say that?

MR. MCCURRY: He had a press conference, a while back.

Q Will there be any ceremony, or what are your plans?

MR. MCCURRY: That will depend on the time of the day. If it's late in the day, as I expect, I think it's more likely that the President will either say something in his remarks this evening at the Hispanic National Convention, or alternatively, we'll have some written statement available depending on what time final action occurs and what time the enrolled bill actually arrives here at the White House.

Q Does the President think that the dismissal of these people who have positively -- been advised of having HIV positive -- does he think the dismissal of all those people from the military will cripple the Defense Department?

MR. MCCURRY: No, he doesn't believe that that will jeopardize our national security. At the same time, the President thinks that's a very unfortunate decision by the Congress to discharge those who are HIV-positive.

I'd like to correct one thing because there have been some erroneous reporting on this. Those who are discharged will receive their full medical and dental benefits. They won't face any lack of support. They'll be in a situation similar to other

military retirees. And our Director of AIDS Policy, Patsy Fleming, is meeting with people from the Department of Defense and the Department of Veteran Affairs today to talk about how they can protect those who might otherwise have their medical care in jeopardy.

Q Following up, does the President think that the fact we have not insisted on testing people before we sell blood at these blood points over the years -- does he think that's increased the number of people who have HIV?

MR. MCCURRY: I would have to check into that. I'm not aware -- I don't know, myself, here what policies for blood-testing that we've got.

Q On the other hand, we recently had a general, a very prominent general die here of AIDS. And I wonder how that category of people listed in the paper today who have HIV-positive in the Pentagon, I wonder if that was an influence on the President in asking for inclusion of people who are gays and lesbians in the service.

MR. MCCURRY: Well, the President's concern, as he stated in his initial veto message on this, that it would be particularly cruel to deny those who are suffering from this disease access to adequate health care. There's at least some improvement in this bill that they've addressed that situation by making sure health care is available to those who are HIV-positive. At the same time, the administration had very deep reservations about the provision of the bill itself which discharged those who were HIV-positive.

Q Well, Mike, what was the extent of the debate within the White House on this issue? I mean, was there a serious debate about whether or not the President would veto it just on the basis of the HIV provision alone?

MR. MCCURRY: There was strong consideration given to that issue, but it had to be weighed -- there are other aspects of the bill that, frankly, we were not wild about either, but we had to weigh that against the very important advances in national security, the need to have a defense authorization bill that would fund military programs for the year, all the different programs and activities of the Department of Defense which are covered under this authorization act.

They had to be weighed in the balance and, as you might expect, with a Republican Congress, there are times when we just have to, on balance, accept some things that otherwise we

wouldn't want to do, but are necessary if we are going to have a strong Defense Authorization Act, which is what we did in this case. But the reservations we had about the provision which I stated yesterday stand. The one thing I am intent on correcting today is the fact that people do have access to medical and dental care.

Q Just as a follow-up, is the White House going to try to push any legislation or try to correct that aspect later on in this congressional term? I mean, is there any --

MR. MCCURRY: Yes. One of the things we do intend to do is work closely with a group of House and Senate members that we are already in contact with to pursue legislation that would reverse this policy and do so, we hope, within the six-month period before it takes effect.

Q Mike, on another subject, what's the White House analysis of Farrakhan's meeting with Gadhafi?

MR. MCCURRY: I didn't -- I actually forgot to look at that, Peter. I mean, we continue to feel very strongly that Mr. Gadhafi needs to abide by U.N. Security Council resolutions. He very often uses the opportunity of visiting foreign visitors to advance his own views about Libya's role in the world, but they remain repugnant because of their support of violence and terrorism, and they remain repugnant because he has still failed in fundamental obligation he has to the international community, which is to turn over the two Pan AM 103 terrorist suspects for proper justice in either Scotland or the United States.

He can have as many foreign visitors as he wants. That doesn't change the equation when it comes to his obligation to comply with those U.N. Security Council resolutions that he is clearly in violation of.

Q Mike, assuming the Congress today will not solve the debt limit problem and you'll have to work on separate legislation on that, where are you with regard to the Speaker's down payment idea? And has the Speaker or the Republican leadership responded to your contention which is go well beyond the down payment; you can do the whole ball of wax, the \$700 billion in savings? Where is all this in --

MR. MCCURRY: The response that we've gotten -- the President continues to believe firmly we can get over \$700 billion of savings based on the proposals that are now on the table and we ought to do that, and we ought to balance the budget and get it done now.

Q So why don't you send up a package and try to do it?

MR. MCCURRY: Well, we've got -- they've got one. We stood here -- the President stood here and talked to you about it, and we've got --

Q Michael, that is the broadest possible outline. I mean, it barely even justifies the word "package." I'm saying, why don't you send them something in legislative language and try to get the votes?

MR. MCCURRY: We will. We'll send a -- as the Office of Management and Budget has indicated, we'll send a detailed outline of a bill on February 5th, and then during the course of February and early March, as OMB has indicated, they'll present a budget. It will be consistent with what -- seven-year balanced budget, CBO, based on our last offer during the discussions, as Mr. Panetta indicated the other day.

Q When you say hurray for Domenici, does your hurray embrace his contention that your balanced budget will only bring about a balanced budget for about a second in the year 2002?

MR. MCCURRY: Well, look, he knows that we've got our little letter that we can wave around from the Congressional Budget Office that says it gets you to balance. Now, his plan is open to the same charge because at the end of the seven years, the year eight, nine and ten, under the Republican budget the deficits balloon because of the giant size of their tax cut. And everyone knows that, and so there's no secret there, nothing new.

Q Did the President get to Dole, speak to Dole?

MR. MCCURRY: I forgot to ask him. I meant to ask him, and I don't believe they did it. No one here at the White House believes that they've had contact, and Senator Dole's been out on the campaign trail, obviously.

Q Mike, back on defense reauthorization just for a moment, some within the gay community who were greatly disappointed when the President reversed himself on gays in the military, and they're expressing some of those same concerns now. They feel that, going into the election year, that the President of the White House just is not as concerned with their issue.

MR. MCCURRY: Well, the President is very concerned if their issue -- and I think it would be unfortunate for anyone to

suggest the only thing the gay community cares about is HIV medical treatment for medical retirees. They also care about a strong national defense; they also want to make sure that we've got the ability to protect ourselves and to lead in the world as we need to, and I think many in the gay community will say, look, on balance, the President had to take this bill because it's a very large piece of our nation's business every year -- the defense authorization bill. They will understand that the President finds this an objectionable portion of that bill, they'll understand that the President improved the bill from its original draft, which would have denied medical benefits to those who are suffering from HIV, and they'll say, all right, he couldn't get everything he wanted, but he did try to improve the bill.

Now, if some people find that unsatisfactory -- and I've seen some folks from ACT UP and others that say that they are dissatisfied, you know, we'll just have to take the lump.

Q What about this -- I mean, coming after gays in the military? Has the military been thrown into --

MR. MCCURRY: Gays in the military was a long time ago, and the administration has done an enormous amount of work, has reached out to the gay and lesbian community and has had a very successful record, I think, of addressing concerns of that community. But I'd like to say again, it is not a monochromatic community; they have a lot of concerns and they are concerned about our national defense and they're concerned about the balanced budget, and they know that the President has been fighting a good fight.

Q I'm curious about something that arose this morning earlier -- the story on the Speaker and the Iranian operation, alleged. You were reluctant to discuss that. My curiosity is whether, in your experience, it's been common for any Speaker of the House to direct a federal intelligence agency to conduct any particular mission.

MR. MCCURRY: I, a, don't know the answer; b, if I knew the answer would not comment on, because it would require me to break the law and comment on things that are properly classified by our government. Intelligence matters are matters that we don't discuss either here or at an open microphone, or even, hopefully, in private, because it's against the law to do so.

Obviously, as is suggested in this article, if, in fact, there is any aspect of this article that borders anywhere

UNCLASSIFIED
NSC/RMO PROFILE

RECORD ID: 9600400
RECEIVED: 24 JAN 96 11

TO: STERN, T

FROM: SENS

DOC DATE: 24 JAN 96
SOURCE REF:

KEYWORDS: DEFENSE POLICY
WH REFERRAL

DEFENSE BUDGET

PERSONS:

SUBJECT: MEMO RE DOD AUTHORIZATION BILL

ACTION: SENS SGD MEMO

DUE DATE: 27 JAN 96 STATUS: C

STAFF OFFICER: SESTAK

LOGREF:

FILES: WH

NSCP:

CODES:

D O C U M E N T D I S T R I B U T I O N

FOR ACTION

FOR CONCURRENCE

FOR INFO

BELL
DANVERS
EXECSEC
NSC CHRON
SESTAK

COMMENTS: _____

DISPATCHED BY _____ DATE _____ BY HAND W/ATTCH

OPENED BY: NSJDA

CLOSED BY: NSMEC

DOC 3 OF 3

UNCLASSIFIED

UNCLASSIFIED
ACTION DATA SUMMARY REPORT

RECORD ID: 9600400

DOC ACTION OFFICER

CAO ASSIGNED ACTION REQUIRED

001 SESTAK	Z 96012411 PREPARE MEMO FOR LAKE
002 LAKE	Z 96012416 FOR DECISION
002	X 96012418 LAKE APPROVED RECOM
002 SENS	Z 96012418 FOR SIGNATURE
003	X 96012418 SENS SGD MEMO

DISPATCH DATA SUMMARY REPORT

DOC DATE DISPATCH FOR ACTION

DISPATCH FOR INFO

003 960124 STERN, T

UNCLASSIFIED

National Security Council
The White House

Rec'd 1/24
3:25 pm

PROOFED BY: _____ LOG # 0400
URGENT NOT PROOFED: _____ SYSTEM PRS NSC INT
BYPASSED WW DESK: _____ DOCLOG AP A/O _____

	SEQUENCE TO	INITIAL/DATE	DISPOSITION
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Dohse			
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Berger	2	Nat Sec Advisor has seen	
Lake			
Situation Room			
West Wing Desk	4	AP 1/24	<u>D</u>
Records Mgt.	5		N

A = Action I = Information D = Dispatch R = Retain N = No Further Action

CC:

COMMENTS:

Exec Sec Office has diskette file

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20504

0400

January 24, 1996

MEMORANDUM FOR TODD STERN

FROM:

ANDREW SENS

AS

SUBJECT:

Memorandum Re: DoD Authorization Bill

The NSC staff recommends that the attached memo from the Office of National AIDS Policy be changed as follows:

(1) Change: In paragraph 3, replace "Such a discharge would also sever individuals from their medical benefits" to "Upon discharge, members would be entitled to the same medical benefits within the Military Health Care System as a military retiree, including access to civilian medical care through the CHAMPUS program."

Rationale: The DoD Authorization bill did provide for medical benefits which were the same as for retirees.

(2) Change: On line 1-3, replace "as part of the negotiations on a revised DoD authorization bill, the Pentagon has apparently agreed to retain the offending provision related to discharge of HIV-positive personnel" with "despite these and other efforts, the offending provision related to discharge of HIV-positive personnel was retained."

Rationale: DoD was unsuccessful in its efforts to delete the provision and remained opposed to its inclusion throughout the negotiations.

Attachment

Tab A

Incoming correspondence

WHITE HOUSE STAFFING MEMORANDUM

DATE: 1-23 ACTION/CONCURRENCE/COMMENT DUE BY: 1-24SUBJECT: DOD Authorization

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☒	☐	McCURRY	☐	☐
PANETTA	☒	☐	McGINTY	☐	☐
McLARTY	☐	☐	NASH	☐	☐
ICKES	☒	☐	QUINN	☒	☐
LIEBERMAN	☒	☐	RASCO	☐	☐
RIVLIN	☒	☐	SOSNIK	☐	☐
BAER	☐	☐	STEPHANOPOULOS	☒	☐
CURRY	☐	☐	STIGLITZ	☐	☐
EMANUEL	☐	☐	STREETT	☐	☐
GIBBONS	☐	☐	TYSON	☐	☐
GRIFFIN	☒	☐	WALLEY	☐	☐
HALE	☐	☐	WILLIAMS	☐	☐
HERMAN	☐	☐		☐	☐
HIGGINS	☐	☐		☐	☐
KLAIN	☒	☐		☐	☐
LAKE	☒	☐		☐	☐
LINDSEY	☐	☐		☐	☐

REMARKS:

Any comment?

RESPONSE:

THE WHITE HOUSE

WASHINGTON

96 JAN 22 P6:55
January 22, 1996

MEMORANDUM FOR THE PRESIDENT

FROM: CAROL H. RASCO 
Subject: DoD Reauthorization

Attached is a memo I have received from Patsy Fleming regarding the DoD reauthorization bill regarding the discharge of HIV-positive personnel. This is a very serious situation. As she notes, if this bill will be signed we absolutely must have a clear message outlining our opposition to this language which will create a serious hardship on personnel who will be discharged.

THE WHITE HOUSE
WASHINGTON

January 22, 1996

MEMORANDUM TO CAROL H. RASCO, ASSISTANT TO THE PRESIDENT FOR
DOMESTIC POLICY

FROM: Patricia S. Fleming, Director, Office of National AIDS Policy

SUBJECT: DoD Reauthorization Bill

As you requested, the following is information on the provision in the pending Department of Defense (DoD) reauthorization bill regarding the discharge of HIV-positive personnel.

Background

Since the mid-1980s, the Department of Defense has adhered to a policy of excluding from military service any applicant for enlistment who tests positive for HIV. Once they have enlisted, military personnel are tested regularly for HIV as part of their medical care. A small number (less than one-tenth of one percent) of active military personnel have been found to be HIV-positive. Currently, those individuals are restricted to stateside duty but are not separated from military service. The military can, and does, separate or retire HIV-positive personnel if their medical condition makes them unfit to perform their duties. This same policy also extends to individuals with medical conditions such as diabetes, asthma, heart disease, and cancer.

The "Dornan Amendment"

Under the terms of the National Defense Authorization Act (H.R.1530), first the House and later the House-Senate conference agreed to an amendment by Rep. Robert Dornan (R-CA) requiring DoD to discharge all military personnel who test positive for HIV. Such a discharge would also sever individuals from their medical benefits. During the course of consideration of H.R.1530, the DoD was asked for its position on this provision. Both the Assistant Secretary for Force Management and the Army Deputy Chief of Staff for Personnel termed this provision unnecessary and noted that it would deprive the Armed Forces of highly-trained, experienced, and healthy individuals.

Administration Action

On December 28, the President vetoed H.R.1530, citing the provision related to the discharge of HIV-positive personnel as one of his reasons for returning the legislation to the Congress. Such action was urged by all of the national AIDS organizations, organizations representing gay and lesbian individuals, and the President's Advisory Council on HIV and AIDS. It was also urged in a December 18 letter to the President from Representatives

Morella and Studds. However, as part of the negotiations on a revised DoD authorization bill, the Pentagon has apparently agreed to retain the offending provision related to discharge of HIV-positive personnel.

Recommendation

I strongly believe that such a provision **should not be included** in the new legislation. Enactment of such legislation would be counter to the President's positions on AIDS policy, non-discrimination, and the protection of individual rights.

If a decision is made to sign the revised legislation, we must make clear our continuing opposition to this language and our intention to ameliorate -- to the best of our ability within the law -- the negative impact this will have on service members and their families.

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20504

0400

January 24, 1996

ACTION

MEMORANDUM FOR ANTHONY LAKE

THROUGH: ROBERT BELL *RGB*
FROM: JOSEPH SESTAK *JS*
SUBJECT: DoD Authorization Bill

The White House Staff Secretary has asked for NSC comments on a memo to the President from the White House Office of National AIDS Policy regarding the DoD Authorization Bill.

The memo expresses opposition to the provision in the bill requiring the discharge of HIV-positive servicemembers. While it does not recommend a veto of the bill, the memo does contain several errors.

Concurrence by: Bill Danvers *Bendall for*

RECOMMENDATION

Approve Away Scoring
That you ~~sign~~ the memorandum at Tab I.

Approve *Attached*

Disapprove _____

Attachment

Tab I Memorandum to Todd Stern
Tab A Incoming Correspondence

TIME STAMP

NATIONAL SECURITY COUNCIL EXECUTIVE SECRETARIAT STAFFING DOCUMENT

SYSTEM LOG NUMBER:

0400

ACTION OFFICER:

SESTAK

DUE:

1/24

- ☒ Prepare Memo For Lake/Berger
☐ Prepare Memo For WH Staff Secretary
☐ Prepare Memo _____

- ☐ Appropriate Action
☐ Prepare Memo For Sens
to _____

CONCURRENCES/COMMENTS*

PHONE* to action officer at ext. _____

Concur

FYI

Concur

FYI

Concur

FYI

- ☐ ☐ Andreasen
☐ ☐ Armstrong
☐ ☐ Appel
☐ ☐ Baker
☐ ☐ Bassett
☒ ☒ Beers
☒ ☒ Bell
☐ ☐ Bendick
☐ ☐ Benjamin
☐ ☐ Blacker
☐ ☐ Blinken
☐ ☐ Bradley
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☐ ☐ Eddy
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☐ ☐ Walsh
☐ ☐ Witkowsky

INFORMATION

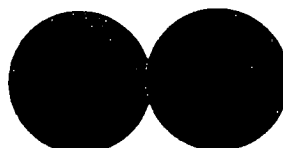
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COMMENTS

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CURRENT NEWS **EARLY BIRD**

FRIDAY, January 26, 1996

20/5

WASHINGTON POST

January 26, 1996

Pg. 1

President To Accept HIV Ban

Defense Bill Also Limits Abortions

By Dana Priest

Washington Post Staff Writer

President Clinton has agreed to sign a \$265 billion defense bill even though it would force discharge of service members who have the AIDS virus and would prohibit military hospitals from performing some abortions, two reasons he vetoed an earlier version of the bill.

The Defense Department, which opposed both measures but nonetheless urged Clinton to accept the bill, said there are 1,049 male and female service members who would have to be discharged within six months under the

new law.

Under the measure, sponsored by Republican conservatives, those discharged would not receive some valuable medical benefits available to other military personnel forced to leave the service for medical reasons.

All the individuals are able to perform their jobs, and they include senior officers, lawyers, generals' aides, Pentagon financial officers, computer specialists, intelligence officers, missile specialists, clergy members, doctors, mechanics, trainers, cryptologists and others.

The Defense Department currently treats individuals who test positive for HIV, the virus that causes AIDS, like any other service member with a chronic but not debilitating illness such as asthma, cancer or heart disease. They are no longer permitted to be sent overseas or into combat, and are separated or retired when they can no longer perform their jobs.

Most HIV-positive personnel now would qualify to receive full medical benefits and tax-free disability pay when they leave the service—benefits most would lose as a result of the

bill.

They would, however, retain most Veterans Administration medical privileges.

The Defense Department does not accept recruits who test positive for HIV and periodically test all service members for the disease. At 20 percent of the "undeployable" military personnel are HIV-positive. The rest suffer from other illnesses. In an increasing number of people with HIV live for 10 years before they show signs of AIDS.

President Clinton, who won election with support from much of the gay community, strained relations with the military early on by turning the ban on gays in the service. His decision to sign the defense bill, however, has alienated much of that community.

"He has bargained away people's lives for the defense bill," said Steve Michael, a spokesman for ACT-UP, a gay rights organization. "He knows better. He may save a few lives in Yugoslavia but he's thrown away hundreds in the military."

"I am disappointed with him because he ran on the promise he was going to make the military equal for everybody," said Shirley Lewis with the Henry M. Jackson Foundation, a private group that researches AIDS in the military.

The provision was sponsored by Rep. Robert K. Dornan (R-Calif.), a presidential aspirant and former fighter pilot who said service members with HIV are an undue financial and personal burden on their fellow service members, because they are

U.S. Plan to Oust Iran's Leaders Is an Open Secret Before It Begins

NEW YORK
TIMES

See Pg. 2

ARMING THE BOSNIANS

U.S. Program Would Aid Force Increasingly Linked to Iran

WASHINGTON POST

See Pg. 5

Possible rash source found

EUROPEAN STARS & STRIPES

See Pg. 13



This publication is prepared by American Forces Information Service (AFIS/OATSD-PA) to bring to the attention of key personnel news items of interest to them in their official capacities. It is not intended to substitute for newspapers and periodicals as a means of keeping informed about the meaning and impact of news developments. Use of these articles does not reflect official endorsement. Further reproduction for private use or gain is subject to original copyright restrictions. Please pass this copy on to someone else who needs current news information, then...



excluded from combat and other jobs, and are unable to give blood in emergencies.

He said yesterday in an interview that most if not all HIV-positive people in the military are "drug users, people who visited whorehouses or homosexuals," and that they are "a politically protected group" because of their campaign donations to Clinton.

Patricia Fleming, the White House director of AIDS policy, said yesterday she would "do everything I can to protect the benefits of people leaving the military" but she could not say what that might be. "I am very concerned" about the provi-

sion, she said, "but I do understand the necessity for the president to sign the legislation."

Pentagon spokesman Kenneth Bacon called the provision "troublesome" and said the department "may ask for it to be changed in other legislation."

The legislation, which is the defense authorization bill, also would prohibit overseas U.S. military facilities from performing privately financed abortions except in cases of rape or incest or to save the mother's life. In 1994 there were three abortions performed in such facilities, all to save the mother's life, a Pentagon spokesman said.

Bacon said the administration's three big complaints with the original bill, which Clinton vetoed in December, had been satisfactorily resolved. No longer included are missile defense provisions that would threaten a treaty with the Russians; restrictions on placing U.S. troops under United Nations command; and a requirement that the president get approval from Congress for military deployments overseas.

The House already has approved the revised bill, and congressional sources predicted easy passage in the Senate, possibly today. It would then go to Clinton for signing.

NEW YORK TIMES

January 26, 1996

Pg. 1

U.S. Plan to Oust Iran's Leaders Is an Open Secret Before It Begins

By TIM WEINER

WASHINGTON, Jan. 25 — In an unusual operation conceived by Speaker Newt Gingrich, the Central Intelligence Agency will mount a new \$18 million covert action to change the nature of the Government of Iran. The operation has not started, but the counteroffensive has.

The directive became public, here in Iran, three months ago — long before it became law. Now the C.I.A. finds itself required, against its better judgment, to plan a "secret" mission, with its cover already blown, in a region where American policy has in recent years suffered failures and fiascos.

The money for the mission was included in a secret bill passed on Dec. 31 that authorizes intelligence spending for this year. Iran reacted to its passage almost immediately: On Jan. 6, it proclaimed that three of its citizens jailed on charges of spying for the United States would be sentenced to death.

On Tuesday, Iran's Parliament announced a \$20 million operation "to counter the Great Satan" and combat the American initiative.

The history of the C.I.A. in Iran includes sponsoring the 1953 coup that installed Shah Riza Pahlavi; the 1979 revolution, in which fundamentalists toppled the Shah, seized the

American Embassy and the C.I.A. station for 444 days and painstakingly pieced together the agency's shredded files; and the Reagan Administration's secret arms deals of a decade ago, in which the C.I.A. helped ship missiles to Ayatollah Ruhollah Khomeini's Revolutionary Guards.

Since the 1986 arms affair was exposed, few in the Government have offered many ideas about how to bring about change in Iran. But Mr. Gingrich — an ex-officio member of the House Intelligence Committee who appoints its Republican members and wields great influence over Government spending — has since last February been calling for a strategy "designed to force the replacement of the current regime in Iran."

He made his feelings known so strongly that his desire for a covert operation became public in late October — first in a short article in an elite Washington newsletter, CQ's Congressional Monitor, then in a six-paragraph article in The Wall Street Journal, then on the news wires around the world.

Members of Iran's Parliament immediately launched verbal counterattacks. One called Mr. Gingrich "not a balanced person;" another condemned the United States as "a renegade Government whose logic

was no different from Genghis Khan or Hitler."

Mr. Gingrich, the Clinton Administration and the C.I.A. feel much the same way about Iran and its leaders, and have said so. But the Administration and the agency argued against the American operation — in part because Iran knew of Mr. Gingrich's idea. After the planned initiative became public in October, the Speaker refused to comment on it.

In November and December, C.I.A. officers argued that since the proposed covert action against Iran was no secret, its chances for success, already slim, were now nil. Despite other secret efforts the agency has mounted in recent years, including last year's \$2 million campaign based largely on radio broadcasts denouncing the fundamentalist rulers of Iran, the C.I.A.'s analysts and operators saw little hope of helping create a new generation of leaders for Iran, or of coercing the current leaders to change their anti-American thinking.

Some staunch enemies of Iran's Government agree.

"The United States is sending the wrong signal," Assad Homayoun, Iran's last chief of mission in Washington under Shah Riza Pahlavi and an active opponent of the Iranian Government, said in an interview this week.

"I don't think covert operations are necessary," said Mr. Homayoun. "Eighteen or 20 million dollars will not change the Government. After the '53 coup, Iranians have become very suspicious of covert operations by C.I.A. The people are aware that

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