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Gays in the Military - Executive Response and Background: DOD [Department of Defense]
Implementation Memo

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ASSISTANT SECRETARY OF DEFENSE
4000 DEFENSE PENTAGON
WASHINGTON, DC 20301-4000



FORCE MANAGEMENT
POLICY

FEB 14 1996

MEMORANDUM FOR ASSISTANT SECRETARY OF DEFENSE (HEALTH AFFAIRS)
ASSISTANT SECRETARY OF DEFENSE (RESERVE AFFAIRS)
GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE
ASSISTANT SECRETARY OF THE ARMY
(MANPOWER AND RESERVE AFFAIRS)
ASSISTANT SECRETARY OF THE NAVY
(MANPOWER AND RESERVE AFFAIRS)
ASSISTANT SECRETARY OF THE AIR FORCE
(MANPOWER, RESERVE AFFAIRS, INSTALLATIONS AND
ENVIRONMENT)

SUBJECT: Implementation of Section 567 of the FY96 National Defense Authorization Act
Requiring Separation of HIV-Positive Members

The President strongly opposes that portion of the National Defense Authorization Act for Fiscal Year 1996 (P.L. 104-106) requiring the discharge of all military personnel with Human Immunodeficiency Virus (HIV) regardless of whether there is any medical necessity for such discharge. He finds this provision discriminatory, wholly unwarranted, and punitive. Consequently, he fully supports legislative efforts to repeal this provision.

The President has determined that this provision is unconstitutional and, therefore, has directed the Attorney General not to defend it in court. The President has been informed by the Secretary of Defense and the Chairman, Joint Chiefs of Staff that the provision 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.

In the event it becomes necessary to implement this statute, the President has directed the Secretary of Defense, 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 separated service members and their families receive the full benefits to which they are entitled, including, among other things, disability retirement pay, health care coverage for their families, and transition benefits and assistance.

Because discharge is not required until August 31, 1996 -- the end of the sixth month after enactment of the law -- no service member will be separated or retired solely because he or she is HIV positive pending further guidance. I request that each addressee designate an individual to serve on a task group to develop this guidance. Please provide the name of your designee to Col Dave Schreier, who can be reached at 695-6312.



Unrecorded
2/14/96
1030

Please ensure that those who are HIV positive are counseled regarding the new statute and what the Administration and the Department are doing, and are provided a copy of this memorandum.



F. Pang

cc:

Commandant, U.S. Coast Guard
Director, Joint Staff