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San Francisco Chronicle
August 17, 1999
Pg. 19

Don't Ask, Don't Tell, Don't Think

By Debra J. Saunders

THERE IS a big problem with the military's new anti-gay harassment guidelines, announced last week, to stop physical and verbal abuse against homosexuals in the military. The guidelines are seen as a response to the beating death last month of Army Pfc. Barry Winchell. He allegedly was beaten because he was gay.

The problem is President Clinton's 1994 "don't ask, don't tell" policy, that was supposed to put an end to recruiters' and commanding officers' questions about sexual orientation, but also allows the military to discharge soldiers who say they are gay or engage in homosexual activity. The new guidelines mandate instruction during recruitment training and periodically thereafter, that would drill into the troops the news that harassment of homosexuals in the military is forbidden. The guidelines also call for special training for judges, lawyers and commanding officers who administer the "don't ask, don't tell" policy.

So, what are military brass supposed to say? "We can fire soldiers for being gay, but you recruits can't taunt them?" Or: "Calling people names is verboten, because it's insensitive, but we can take away people's livelihoods because they're gay or lesbian, and that's not harassment?"

Secretary of Defense William Cohen put it this way in a statement issued last week: "I've made it clear there is no room for harassment or threats in the military."

What is this world coming to -- no room for harassment or threats in the military? What next? No fighting? No bombs? No sparring during basic training because someone might get hurt?

Couldn't the troops simply be menacing and pumped up, but under orders not to harm fellow patriots?

Some reports on the new guidelines have treated the anti-harassment guidelines as sensitivity training. That ought to send a chill up the spine of anyone who's been pressed to attend a sexual harassment seminar. But a Department of Defense spokesman said that it's not clear what the training will include. Will there be role-playing or will some thick-necked sergeant simply bark at recruits not to call other soldiers certain names? Don't know yet.

Oh, please. Pretty please. Let it be the latter. There have been too many seminars in public schools and private offices that try to dictate how people must think -- call it Forced Tolerance -- instead of simply outlining how they must behave.

Besides, if the military wants recruits to understand that they can't mistreat homosexuals, all the brass have to do is punish offenders. Throw a few thugs in the brig and that will send a much stronger message than anything said by a sensitivity trainer.

The problem with using training, as opposed to punishment, as a remedy to harassment is that, like the "don't ask, don't tell" policy, it's all about words, not actions. If the policy dealt with behavior, the

military would discharge military personnel who, gay or straight, misuse their positions for sexual gratification.

"Don't ask, don't tell" implies: Don't say you're gay and you should be OK. But as Michelle Benecke of Servicemembers Legal Defense Network noted, the policy "requires people to lie every day." Thus it undermines the integrity of military values. Recruits have to lie when their fellow grunts ask what they did over the weekend. Some have to make up girlfriends or boyfriends. (For all I know, some have even felt compelled to rework what the words "sexual relations" entail.)

Add to the lies the element of fear. "Service members who already have to look over one shoulder for snipers and land mines in Kosovo shouldn't have to look over another shoulder in fear that they will be attacked by other soldiers or attacked by Uncle Sam," Benecke noted.

Now there are lies, fear and new military etiquette. How to fire a homosexual without being offensive. There's only one way, though: Don't do it.

San Francisco Chronicle
August 17, 1999
Pg. 18

'Don't Ask, Don't Tell' Reveals More Flaws

THE PENTAGON'S decision to issue new guidelines on its ``don't ask, don't tell" policy is more proof that trying to compromise on the issue of gays in the military does not work.

What prompted the new directives are abuses of the current system, such as basing investigations of sexual orientation on mere suspicion or rumors. ``Don't ask, don't tell" purportedly continues the long tradition of barring gays from the military, but those who do not discuss their sexuality may remain. Officers are barred from asking troops about their sexual orientation.

The Defense Department claims that the abuses are small in number. However, gay and lesbian personnel are being discharged at far higher rates than before the policy went into effect in 1994 -- the exact opposite of what it was intended to do.

Pentagon officials say 80 percent of the discharges occur because the individual comes forward. But some are coming forward because of anti-gay harassment. And when they identify themselves, the victims then become the punished.

President Clinton has only himself to blame for the mess. He promised during the 1992 campaign to end discrimination against gays in the military, then backed off under pressure from Congress and agreed to the unworkable ``don't ask, don't tell" compromise.

The new rules require anti-harassment training for all personnel, beginning in boot camp. Commanders also will be required to consult with senior military lawyers before opening an investigation of a person's sexual orientation to make sure that proper procedures are followed.

However well-intentioned, the new rules do not eliminate a muddled policy that puts gays and lesbians at risk of harassment for which they have no recourse.

As anecdote after anecdote shows, many homosexual men and women are valiantly serving their country, often in extraordinarily heroic ways. They should be subject to the same rules and restrictions as all members of the armed services, no more and no less.

However, they should not be penalized with a hypocritical policy that says they may only fight for their country if they live a lie.

It is time for the military to take the forthright approach and ban discrimination based on sexual orientation.

Washington Post
August 16, 1999
Pg. 15

Soldiers' Stories

By William Raspberry

One soldier is dead, and another is about to be kicked out of the military. And I'm trying hard not to overdramatize the connection between the two.

Pfc. Barry Winchell's death, according to the charges against the man who's been taken into custody, was premeditated murder -- and likely a "hate crime" as well. Winchell was believed to be homosexual, and Pvt. Calvin Glover, the Fort Campbell, Ky., colleague charged with beating him to death with a baseball bat, was reported to have made disparaging remarks about gays after he was taken into custody.

Nothing remotely that awful has happened to Steve May, an Army reservist who is also an openly gay member of the Arizona legislature. He is now subject of an investigation that could result in a less-than-honorable discharge from the military. The offense? He violated the "don't ask, don't tell" rule that allows homosexuals to remain in the service so long as they don't publicly disclose their homosexuality; the military is forbidden to ask about their sexual orientation.

Two special bits of irony attend May's case. First, he is, by all accounts, an outstanding soldier. Indeed, if he survives the attempt to oust him, he's likely to be promoted to captain.

Second, May was essentially out of the service when the trouble came. He had completed his ROTC training, done two years' active duty (winning a promotion to first lieutenant) and was expecting to serve out the remainder of his eight-year obligation in the inactive reserve. Then Kosovo happened, and May received notice that he would be going on active reserve status.

Here's the problem. May, 27, had run unsuccessfully for the statehouse in 1996 when, he told me, a supporter "outed" him -- publicized his homosexuality -- apparently in an attempt to rally the gay vote. In his 1998 campaign, May -- a conservative Republican and former Eagle Scout -- disclosed his sexual orientation and was elected. "I thought I needed to be open and honest with my constituency," he said.

But his superiors were duty bound to react to that openness. After all, a scant week or so before the activation orders came down, May was on the front page of the local newspaper opposing an anti-gay bill then before the legislature.

"My commanders aren't doing this vindictively," he said in a telephone interview. "They don't have a choice. I guess the real issue for me right now is to find the best way to transition out of the service honorably. I enjoyed my active duty. It was a great two years, and I got an incredible evaluation report. I'm perfectly happy to serve in the reserve -- not that I have time for it or even any particular desire. It's my obligation, and I take that seriously."

He said he'd been following the Fort Campbell case with great interest. "The situations are different, of course," he said. "In the first place, I'm an officer, and that has kept me away from some of the [homophobia] that enlisted men have to deal with. Also, as an active reservist, I'm a civilian for 28

days a month, and my colleagues get to know me on that basis. I don't have to deal with the institutional homophobia."

And that, May believes, was Winchell's undoing. "The military as an institution teaches that gay people are unfit for military service." Isn't it likely, he wondered, that that institutional attitude filters down to people who may not be able to deal with it appropriately? Haven't we always feared that intolerance in high places, however judiciously expressed, can push less-disciplined bigots into violence?

May thinks the military needs to get over its anti-gay bias -- and not merely in the interest of gay rights.

"The military is facing a readiness problem. Recruitment is becoming more difficult. And every year a thousand or more qualified and trained service members are booted out of the military because of their sexual orientation. Homophobia contributes to a huge waste of resources."

And sometimes a lot worse.

New York Times
August 14, 1999

Revised Rules On Gays In Military Displease Gay Rights Advocates

By Philip Shenon

WASHINGTON -- The Pentagon on Friday announced its first major revision of guidelines for its "don't ask, don't tell" policy on homosexuals in the military, including a new requirement that commanders seek approval from senior civilian officials at the Pentagon before opening certain types of investigations of troops who admit that they are gay.

The revised guidelines failed to satisfy gay rights advocates, who say that the new directives do not go far enough and that pervasive hostility toward homosexuals in uniform continues to result in violent harassment. They pointed to last month's brutal murder of an Army private in Kentucky as evidence of the entrenched hostility.

Under the guidelines, the Pentagon ordered that commanders institute anti-harassment training at all levels of the military, beginning with basic training, and that low-level military lawyers consult with senior lawyers before opening an investigation of anyone suspected of being gay.

The new directives also require that commanders seek approval from the military secretary they serve -- the Army secretary, in the case of an Army commander -- before opening an investigation in the dozen or so cases a year when "a service member made a statement regarding his or her homosexuality for the purpose of seeking separation" from the service.

The requirement appears to have been designed to answer criticism from gay rights advocates that the military has conducted intrusive investigations into the sex lives of troops who admit their homosexuality and are preparing to leave the service.

The investigations, the advocates charge, are an effort to find damaging information that can be used to force troops to pay back military scholarships and other benefits.

"I've made it clear there is no room for harassment or threats in the military," Defense Secretary William Cohen said in issuing the directives, which the Pentagon described as an attempt to spell out the policy more clearly to avoid abuses.

"I've instructed the military services to make sure that the policy is clearly understood and fairly enforced," he said. "The department is determined to implement the homosexual conduct policy with fairness to all concerned."

While the five-year-old "don't ask, don't tell" policy was designed by the Clinton administration to make it easier for homosexuals to serve in uniform, gay rights advocates contend that the instances of anti-gay harassment in the military have actually increased.

And the numbers of gay and lesbian soldiers facing discharge from the service has grown dramatically under the policy. Last year, 1,145 people were discharged from the armed services for homosexuality, compared to 997 in 1997 and 617 in 1994, the year the policy took effect.

The military continues to bar openly gay people from serving in uniform. Under the policy, homosexuals can serve in the armed forces as long as they do not discuss their sexual orientation, and commanders are barred from asking troops whether they are gay.

The new guidelines also remind commanders that they cannot open investigations of the sexual orientation of troops without credible information, that they must promptly investigate when troops complain that they are being taunted because of the perception or allegation that they are gay, and that those troops cannot be the subject of retaliation for filing complaints.

They also, for the first time, give a specific order to internal investigators within each of the branches of the military -- the inspectors general -- to review whether commanders and military lawyers are carrying out the "don't ask, don't tell" policy properly.

The new directives were the subject of heated last-minute negotiations Friday between the Pentagon and the Servicemembers Legal Defense Network, a prominent Washington group that represents soldiers who are prosecuted over their perceived sexual orientation.

The Defense Network has considerable clout within the White House, especially within the staff of Vice President Al Gore, who is heavily courting the gay community in his campaign for the presidency.

"The Pentagon's new guidelines seek to insure fairness, leave no room for harassment and insure the law is better understood," said Alejandro Cabrera, a Gore spokesman. "The vice president has said that he believes the current policy should be implemented with more compassion. He supports every effort to that end."

Michelle Benecke, a retired Army captain who is co-director of the organization, said that while the group was pleased with the wording of Cohen's statement and with some elements of the directives, the new guidelines would leave many members of the military vulnerable to harassment and violence. "This is not a new day," she said.

She said the guidelines, which have been delayed for months, did not provide the sort of detailed direction to commanders that might prevent the sorts of abuse that appear to have led to last month's death of a soldier at Fort Campbell, Ky.

The soldier, Pfc. Barry Winchell, was allegedly beaten with a baseball bat by a member of his unit after his homosexuality became known on the base, one of the nation's largest.

"We've pressed Secretary Cohen for two years now to tell commanders the investigative limits and how to properly implement these policies, and there's nothing in the package today that does that," Ms. Benecke said. "What's here is inadequate to address the magnitude of the problem."

Kenneth Bacon, the Pentagon's senior spokesman, said that as a result of Friday's negotiations with the Defense Network, there had been changes in the wording of one of the new guidelines issued Friday.

The draft of the guidelines had called for low-level military lawyers to consult with "the general court-martial convening authority" -- a military term referring to senior lawyers in the military criminal justice system -- before opening an investigation of a service member's sexual orientation.

Those words were replaced with "senior legal officers at higher headquarters," which Bacon said was an effort to remove any implication that the investigations were being handled as criminal

proceedings. "We did not mean to leave that impression so we changed it," Bacon said.

David Smith of the Human Rights Campaign, the nation's largest gay rights group, said that while the Pentagon's new guidelines were "welcome, in and of themselves they are not going to solve the problem."

"What it's going to take is a commitment from uniformed leadership through the armed services stating unambiguously and clearly that anti-gay harassment will not be tolerated under any circumstances," he said. "It's shameful that it has taken a tragedy such as Private Winchell's death to wake up the leadership to this problem."

Washington Post
August 11, 1999
Pg. 1

Hate May Have Triggered Fatal Barracks Beating

Slain Soldier Had Been Taunted on Base as Secret Emerged About His Sexuality

By Sue Anne Pressley, Washington Post Staff Writer

FORT CAMPBELL, Ky., Aug. 10 – Pfc. Barry Winchell enjoyed being a soldier. He studied military manuals, relished the physical training. He was so accurate at firing a .50-caliber machine gun that he was named best in his company, and someday, he vowed, he would be one of the best helicopter pilots in the Army.

But Winchell, 21, also had a secret that was becoming known among the other soldiers in his unit: He was gay.

That realization may have cost the young soldier his life, gay rights groups believe.

During the early-morning hours of July 5, Winchell was brutally beaten with a baseball bat in his barracks here at one of the nation's largest Army bases, allegedly by another soldier in his unit while his own roommate encouraged the attack. The next day, Winchell, his face swollen beyond recognition, died at a civilian hospital.

Although Army officials have not disclosed a motive for the attack – Winchell had gotten the best of the soldier in a fight a few days before the killing – local and national gay rights groups contend there is mounting evidence that Winchell was the victim of a hate crime. If true, they said, this would be the first known case of a soldier being killed at a U.S. military base because of his sexual preference in the five years since a new federal policy was adopted toward gays in the military.

In the era of "Don't ask, don't tell, don't pursue" – the law passed by Congress that took effect in 1994 and allows gay service members to serve as long as their sexual orientation is not discovered – the Winchell case illustrates the deep-seated prejudices that continue to plague gays in the military. It also has placed the Army and Fort Campbell, home of the celebrated 101st Airborne Division, the Screaming Eagles, in an uncomfortable spotlight.

Officials at Fort Campbell, which sprawls across the Kentucky-Tennessee border and has nearly 24,000 military personnel, have had little comment about the slaying. Maj. Pamela Hart, a spokeswoman for the base, said the probe is ongoing, with investigators "looking into all rumors and reports."

But during the last six months of his life, Winchell apparently was taunted frequently by fellow soldiers and superiors who had learned of his homosexuality, according to service members who testified this week at a court hearing and his friends. Lawyers and potential witnesses in the case are under a gag order forbidding them to speak to reporters, but a picture began to emerge nonetheless of an environment where a macho image is still highly valued and where a slur for a male homosexual was used freely as an insult. Alcohol in excessive amounts also apparently played a large role in the tragedy.

"Pretty much everybody in the company called him derogatory names," said Sgt. Michael Kleifgen, Winchell's section leader, in sworn testimony today. "Basically, they called him a 'faggot' and stuff like that. I would say on a daily basis. . . . A lot of times, he was walking around, down in the dumps."

Pvt. Calvin N. Glover, of Sulphur, Okla., has been charged with premeditated murder in Winchell's slaying. This week's Article 32 hearing, comparable to a grand jury hearing in civilian court but open to the public, was held to determine whether enough evidence exists to court-martial Glover.

A second soldier, Spec. Justin R. Fisher, 25, of Lincoln, Neb., was later charged with being a principal to premeditated murder and acting as an accessory after the fact, among other charges. Fisher was Winchell's roommate in Delta Company, 2nd Battalion, 502nd Infantry regiment.

Several soldiers testified this week that Glover and Fisher were heavy drinkers, perhaps alcoholics. Pfc. Arthur Hoffman said that Glover, in particular, who at 18 cannot drink legally, became unpleasant and "aggressive" when he had been drinking.

Winchell, a native of Kansas City, Mo., was described by friends as a quiet young man with a masculine demeanor and down-to-earth attitudes. Although he had dated women exclusively in the past, he confided to friends that he had long questioned his sexuality and had been curious about gay life. His mother and stepfather, Patricia and Wally Kutteles, told the Louisville Courier-Journal that they were stunned to learn only after his death that he was gay.

Rumors about Winchell began to circulate widely through his platoon some six months ago after Fisher informed Sgt. Kleifgen that he had seen a soldier, whom he did not identify, at the Connection, a nightclub 60 miles away in Nashville that has a large gay clientele. Kleifgen told investigators today that he and a staff sergeant immediately went through a list of their soldiers and "asked every Pfc. in the company where they were that weekend."

"We figured out it was Winchell. I asked Winchell if he was gay. He said no," Kleifgen said, as gay rights activists in the audience gasped at the apparent flouting of the "don't ask, don't tell" law.

At first lauded as an advancement in relations between gays and the military, the law instead has received mixed reviews as many gay rights groups say that hostilities have only increased since its adoption. In this case, gay rights groups fear, soldiers who come forward with information could be subjecting themselves to questions about their own sexuality.

Incidents of gay harassment have increased every year since 1994, according to the Servicemembers Legal Defense Network, a Washington-based group that assists gays in the military. Last year alone, reported incidents increased 120 percent over 1997, according to an annual report released by the group.

Although much of the compiled evidence that a hate crime occurred in the Winchell case has been "anecdotal," according to Clarence Patton of the New York City Gay and Lesbian Anti-Violence Project, "our antenna always goes up when someone known to be gay or lesbian is the victim of a violent crime."

"In hate crimes," he said, "there are certain indicators – an element of overkill. . . . I do not believe this was an ordinary fight. That does not ring true."

Gay rights advocates say they want the military to more vigorously investigate soldiers harassed because of sexual preference. They say doing so can prevent it from escalating to physical violence.

Since March, Winchell had been involved in a relationship with a performer at the Connection, a self-described preoperative transsexual named Cal "Calpernia" Addams, who attended this week's hearings dressed as a woman.

"When I heard what had happened, I thought, 'Oh God, they've killed him because he was dating me,' " said Addams, a former Navy medic who served in the Persian Gulf War.

Hostilities in Winchell's unit apparently began to reach a peak on the evening of July 3 when he and Glover, who had been drinking, got into a fistfight, which Winchell won handily. Hoffman said that Glover had been bragging about his exploits when he was challenged by a disbelieving Winchell.

"He [Glover] was trying to make himself sound like a bad [guy]," Hoffman said. "The stories were pretty out there. . . . Winchell kicked Glover's [butt]. It was a long time coming."

Later, Glover may have been teased by other soldiers about his defeat, said Kathi Westcott, a staff lawyer with the Servicemembers Legal Defense Network. Several soldiers reported to the group, she said, that "Glover was taunted basically for getting his [butt] kicked by a [gay man]."

Chief Warrant Officer Alfred Brown, a special agent for Fort Campbell's Criminal Investigation Division, testified that soldiers told him that Glover had vowed to "get even, kill him."

The next day, July 4, alcohol was flowing freely in the barracks, as many of the soldiers in the company emptied a keg of beer. Winchell, Glover and Fisher were drinking heavily, other soldiers reported. Several said they last saw Fisher and Winchell at about 2 a.m. on July 5, sitting at a picnic table outside the barracks.

By 3 a.m., the fire alarm in the barracks was clanging and men were piling out of their rooms, stunned to learn that Winchell was gravely injured. Fisher raced into the room shared by Pfc. Jonathon Joyce and Pfc. Nikita Sanarov, yelling that "Winchell's dying."

The two men said they saw a blood-splattered Winchell lying unresponsive in a second-floor hallway. Sanarov, who ran outside to get his car at Fisher's request, said he first saw Glover running from Winchell's barracks toward his own barracks. A few minutes later, Sanarov said he saw Glover sprinting toward a trash bin with what appeared to be an armful of clothing.

Investigators later found Glover in his room, along with a bloodstained shirt and blood smears on the door.

After Glover's arrest, Pfc. Ryan Futch, who guarded the soldier, said he overheard Glover and another prisoner exchanging epithets against blacks and homosexuals. Futch said Glover told him that he had beaten Winchell with a bat.

If Glover is court-martialed and found guilty, he will face life in prison.

In death, it seems, Pfc. Barry Winchell's secret was finally and fully exposed. At a memorial service in Nashville last month, Cal Addams spoke about what "a kind, calm gentleman" Winchell had been. Behind him, four people in civilian dress held aloft an American flag – while four others held the rainbow banner, a symbol of the gay rights movement.

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Christian Science Monitor

July 13, 1999

Pg. 2

Military Adjusts To 'Don't Ask, Don't Tell'

In six years, views have softened toward homosexuality, but some still report bias.

By Dave Moniz, Special to The Christian Science Monitor

COLUMBIA, S.C. -- Six years ago, a new commander-in-chief went toe to toe with his top generals, battling them over the Pentagon's long-standing ban on homosexuals.

What emerged from that tense boardroom battle was "don't ask, don't tell," a compromise designed to let gays serve in the armed forces if they kept quiet about their sexual orientation.

Five years after the policy was enacted, there is growing evidence that sexual orientation is not the incendiary issue it once was for men and women in uniform. Citing an end to "witch hunts" for homosexuals and a new era of tolerance, military services believe the policy works.

"We're more tolerant of folks and different beliefs," says Col. Robert Swann, chief legal officer at the Fort Jackson, S.C., military base. "All that the 'don't ask, don't tell' policy did was codify our beliefs."

Indeed, the softer attitude toward homosexuality extends into the rank and file at Fort Jackson. At a dining hall here, Sgt. 1st Class James Ruesch says it doesn't bother him if someone is homosexual "if they do their job. [But] if you start acting out, it's a problem," adds the infantry soldier, who has spent 14 years in the Army. Referring to private conduct, he shrugs his shoulders: "To each his own."

Polls show this more laid-back attitude is gaining ground in military barracks nationwide, suggesting that fewer troops than ever care about a comrade's sexual orientation.

Broader acceptance

Six years ago, as the "don't ask, don't tell" policy was being created, sociologists Laura Miller and Charles Moskos reported that 77 percent of Army men and 34 percent of Army women opposed or strongly opposed gays in the military. In August 1998, Mr. Moskos and Ms. Miller found the percentage had dropped to 52 percent among men and 25 percent among women.

The shift mirrors a broader acceptance of homosexuality in the US as a whole. A poll by Yankelovich Partners Inc. shows that the number of Americans who don't want homosexuals as friends dropped from 40 percent in 1994 to 37 percent in 1998. Young adults, who are much more likely to have gay friends, are more accepting of gay issues. It is this generation that is joining the military ranks.

But many inside and outside the military still see signs that all is not well between gay service members and their employer. They cite rising numbers of people being discharged under "don't ask, don't tell." According to Defense Department figures, 1,145 people left under the policy in 1998, up from 997 in 1997.

Military officials believe the overwhelming majority of discharge cases now involve those who

volunteer their sexual orientation to commanders, often as a way to leave the service.

Moskos, one of the nation's foremost authorities on military sociology, suspects that in an era when all the services are suffering personnel woes, a substantial percentage of young military recruits may come forward because they decide a soldier's life is not for them. "I think it is an easy way to get out," he says. "People are outing themselves."

Gen. Lloyd Newton, who oversees Air Force training, agrees. His service has seen a skyrocketing number of discharges in basic training recently. "They learn, if I step up and say, 'I'm homosexual,' we don't ask anymore questions," he says.

At Fort Jackson, a sprawling base that trains nearly 40,000 recruits a year, comparatively small numbers are discharged under "don't ask, don't tell." In 1998, 36 soldiers - all but one a recruit - left the Army under the policy.

Colonel Swann says all 36 cases involved soldiers who voluntarily told commanders they were gay. Eighty percent of the discharges were recruits who revealed their sexual orientation within a week of arriving on base.

Discrimination persists

But gay-advocacy groups, including the Service members Legal Defense Network (SLDN), say discrimination is still a big problem, even though attitudes have softened. They speculate that a cloistered, secret life - added to the normal stresses of military service - could account for why more service people are being discharged under the "don't ask, don't tell" policy.

"Overwhelmingly, antigay harassment is driving people out," says Michelle Benecke, co-director of SLDN, highlighting points made in the group's recent report criticizing the Pentagon. "Having been a commander, [I've seen that] so much depends on unit climate. Unfortunately, in most units, bigots have a free hand."

One Army officer who didn't want to be identified characterizes the climate today as better, but not perfect.

Although open criticism of gay lifestyles has largely disappeared, he says, it's still common "to hear gay jokes at the mess hall all the time."

Battalion commander Lt. Col. Kelly Kruger, a West Point graduate who's been around the world in the Army, believes the military is changing from many of the old stereotypes and caricatures. He notices few gay jokes and no general disdain for gays or lesbians in the ranks.

Still, Lieutenant Colonel Kruger doesn't agree with the views of his young soldiers and is uncomfortable with the homosexual lifestyle. He espouses the traditional military view that homosexuality is incompatible with the barracks living and wartime pressures of military service: "We find it an unacceptable trait."

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Denver Post
May 2, 1999
Pg. F5

Truth Also A Victim In Navy's Tragedy Report

A Glimpse Of Hell: The Explosion Of The USS Iowa And Its Cover-Up
By Charles C. Thompson II
Norton, \$27.95

By Steve Weinberg, Special to The Denver Post

Ten years ago, the Navy battleship USS Iowa sailed to the Caribbean on what was supposed to be a routine training exercise. While the crew was trying to fire the battleship's guns to impress an admiral on board, one of those guns blew up.

A fireball surged through the seven-story structure housing the guns. The fireball released poisonous gases and ignited bags of gunpowder. By the time the inferno came under control, 47 men had died, many others had suffered serious physical injuries and countless others of the approximately 1,600 on board sustained mental anguish that still dogs them.

The deaths received plenty of attention in 1989. Reports from the government and news media continued for several years as investigations tried to unravel what had gone wrong. For those paying any attention back then, the official explanation sounded simple: A disgruntled young seaman, apparently acting to settle a thwarted homosexual affair on board, had sabotaged the guns. That seaman, Clayton Hartwig, had died on board. Details didn't add up.

Charles C. Thompson II, author of "Glimpse of Hell: The Explosion of the USS Iowa and Its Cover-Up," never bought that explanation. A veteran journalist then employed at CBS' "60 Minutes," Thompson had served in the Navy decades earlier. He understood from the beginning that many of the details leaked by the Navy command failed to add up.

A few days after the carnage, Thompson received a call from one of the surviving gunner's mates. The source had helped extinguish the fires on board, then had participated in identifying and removing the charred bodies. The investigation by the Navy had been dishonest from the start, the source said, aimed at deflecting any blame from the battleship's commander, Fred Moosally, and everybody above him in the Navy who had known of the battleship's potentially deadly deficiencies before the explosion.

Working with Mike Wallace at "60 Minutes," Thompson sometimes thought he had witnessed every form of government dishonesty during his career, but the dishonesty throughout the U.S. Navy command managed to shock him nevertheless.

At Moosally's direction, evidence that might have helped explain the cause of the mass death got tossed overboard. Items as large as two 2,700-pound projectiles disappeared. Honest testimony from lowly seamen was doctored. Test results meant to explain what had gone wrong in the highly technical gunnery operation turned out to be fabricated. Autopsy reports did not add up when scrutinized by independent medical examiners.

Probably suffering the most were the family and friends of Hartwig. The Navy portrayed him as a

poorly trained, vindictive homosexual. In fact, he was almost certainly none of those things. Thompson criticizes many journalists for swallowing the Navy version, rather than seeking out information from those less likely to be worried about covering their tracks.

Thompson's dogged investigating almost certainly has produced an account much closer to the truth than the Navy version, or most of the previous media versions. Measured by its information-gathering, this is a great book of investigative journalism.

Thompson weaves accounts from hundreds of human sources with details picked up from previously secret documents. His own understanding of the military, supplemented by the knowledge of Navy and civilian experts appalled by the cover-up, leads to lengthy but clear explanations of the ship's operations. His research in military archives placed the operations of the USS Iowa in historical perspective.

The massive amount of detail from so many sources leads to the book's only weakness: At times, it can be overwhelming to somebody who has never served on a battleship. Any reviewer ought to be reluctant to carp about too much information when so many books contain too little. Where are they now?

The book contains an epilogue, telling what has happened over the past decade to dozens of individuals on the battleship that day, in the Pentagon, the media, Congress and the private sector. Some of them might well be criminally negligent in 47 deaths, but as is too often the case when somebody in government screws up, those most negligent have not only survived professionally, but also thrived.

Moosally, arguably the most villainous of the actors, according to Thompson, retired from the Navy in 1990. A defense contractor hired him. He still has powerful Capitol Hill connections and lives the good life outside Washington, D.C.

Readers who accept Thompson's account of the explosion and cover-up will quite likely wonder how Moosally and a number of his superiors can sleep at night.

Steve Weinberg is editor of the IRE Journal, monthly magazine of Investigative Reporters & Editors, an international group based at the University of Missouri Journalism School.

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Fayetteville (NC) Observer-Times
March 16, 1999

Military's Gays Speak Out

'Don't ask, don't tell' policy is criticized

By J.S. Newton, Staff Writer and Catherine Blake, Medill News Service

WASHINGTON -- Former Army Spc. Carol Melnick said she was treated like an outcast because soldiers in her unit suspected she was gay.

"It was difficult to deal with emotionally," she said. "I felt like I had nowhere I could go."

Melnick said she remembers hearing people in her unit -- the 4th Psychological Operations Group at Fort Bragg -- whispering about her sexual orientation.

She said the back-stabbing got so bad she didn't feel comfortable going to the post dining hall, the gym or the on-post club.

Making matters worse, she said, was that from the time she got to her unit in March of 1997, she had to keep her sexual orientation a secret.

Melnick was one of a handful of former military personnel asked to tell their story Monday at the National Press Club in Washington, D.C. Her story was similar to others documented in a new 87-page report on anti-gay harassment by the Servicemembers Legal Defense Network.

The Washington-based group frequently monitors the progress of President Clinton's 1994 "Don't Ask, Don't Tell, Don't Pursue" policy.

The policy was adopted by the military shortly after Clinton became president. Under the policy, the military is not to ask military personnel what their sexual orientation is and military personnel should not volunteer their sexual orientation. Persons who have been discovered engaged in homosexual conduct are discharged from the military.

The president said the compromise policy would slow the number of military personnel being forced from military service because they were gay.

In 1998, the military discharged 1,145 service members -- a 92 percent increase since the policy was implemented in 1994.

The discharge figures also represent the largest number of gay discharges in more than a decade.

Servicemembers Legal Defense Network officials said that not only is the policy not working, but that harassment of military personnel is increasing at an alarming rate.

The report blames commanders for not properly implementing the policy and for tolerating anti-gay behavior.

Michelle Benecke, co-executive director of the network, said top commanders are "AWOL when it comes to stopping anti-gay harassment."

Further, she said by booting homosexuals out of the military, the Department of Defense spends valuable resources.

The report said that since the "Don't Ask, Don't tell" policy took effect, the military has spent \$130 million on training and replacing gay service members.

The group said there were more than 400 incidents of anti-gay harassment in 1998 -- up from 182 the previous year. The alleged harassment ranged from verbal abuse, to physical assaults to death threats, the report said.

Servicemembers Legal Defense Network officials said they documented 511 cases where the military violated its own "Don't ask, Don't tell," policy. That's a 42-percent increase over the previous year, it said.

Lt. Col. Rick Spearman said he did not think that Fort Bragg has a pervasive climate of intolerance against anyone -- gay or otherwise.

He said soldiers who leave the military because of the "Don't Ask, Don't Tell" policy often are discharged honorably.

Spearman said post officials do not allow "harassing behavior of any kind."

The Servicemembers Legal Defense Network report cited Department of Defense figures for the number of discharges in 1998.

Fort Jackson, S.C. discharged 35 soldiers and Fort Leonard Wood, Mo. discharged 34 soldiers. Both are training bases.

Fort Hood, Texas discharged 21. Fort McClellan, Ala., discharged 18 soldiers and Fort Knox, Ky., discharged 15.

Fort Benning, Ga., and Fort Bragg, each had 14 discharges, the report said.

The report said that of the 14 Fort Bragg soldiers discharged, 10 were male and four were female.

At Pope Air Force Base, one man was discharged in 1998, the report said.

Fort Bragg officials said the number of discharges actually was 16.

Melnick said the military is losing quality soldiers at a time when it needs them most. She speaks three languages and has a college degree.

"The military can't recruit and retain qualified personnel and yet they lost me and many others like me," she said.

Melnick was discharged in December of 1998.

She said she finally made her sexual orientation known when she found out that a barracks supervisor had been telling new soldiers to stay clear of her because she was gay.

It was the final straw, she said.

"I think people would be surprised at how far behind the times the military culture is," Melnick said. "I didn't expect people to be involved in my sexuality at all."

Lt. Col Tom Rheinlander, a spokesman for the United States Army Special Operations Command at Fort Bragg -- which oversees Melnick's former unit -- said harassment and intimidation are not part of the command climate.

"All soldiers of the U.S. Army Special Operations Command are treated with dignity and respect," he said. "We will only take action against a soldier if he or she voluntarily admits being a homosexual or credible information exists indicating the soldier has committed a homosexual act."

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Washington Post
March 16, 1999
Pg. 19

Military Still Said To Harass Gays

Pentagon Disputes Legal Group's Report of Intimidation

By Bradley Graham, Washington Post Staff Writer

A legal group that represents gay men and women in the military accused the Pentagon yesterday of doing little to stop harassment against homosexuals, saying a climate of intolerance and hostility is driving more gay service members to abandon the military.

Issuing its fifth annual assessment of the effectiveness of the Clinton administration's "don't ask, don't tell" policy, the Servicemembers Legal Defense Network (SLDN) said it had documented 400 reports of anti-gay harassment in the ranks last year, more than double the 182 cases found the year before.

Reports of military officials improperly asking service members about their sexual orientation or wrongly conducting inquiries into the sex lives of suspected homosexuals also rose from 583 to 934, the group said.

"These violations are due to a lack of leadership," SLDN concluded in an 85-page review. "Military leaders have refused to send guidance to the field explaining the explicit investigative limits" under the administration's policy. They also "have held no one accountable for asking, pursuits or harassment."

Pentagon officials disputed the findings. They said that a 1997 directive instructing commanders to investigate any anti-gay threats--the directive that SLDN says has yet to be passed down to field officers--remains in effect. They also said a year-long Pentagon review, completed last April, concluded that the policy on homosexuals was being properly applied and enforced.

Under the policy, which was painstakingly negotiated among administration officials, lawmakers and military leaders in 1993, the Pentagon agreed to stop searching out gays, provided they keep their sexual orientation private. Being homosexual is no longer a bar to military service, but admitting it or engaging in homosexual activity still brings expulsion.

The policy was a compromise between President Clinton's 1992 campaign pledge to eliminate the mandatory discharge of gays and resistance by the military and Congress to allowing homosexuals to serve freely.

According to the Pentagon's own count, discharges of gay service members have continued to climb since introduction of the policy, from 617 in 1994 to 1,145 last year--a jump of 86 percent.

Defense officials have said the vast majority of the discharges involved service members coming forward voluntarily to profess their homosexuality, automatically triggering their departure from military service. Officials also have suggested that some of the troops may be taking advantage of the policy to find an easy exit from the military.

But the SLDN report makes the case that many of those leaving are being compelled to go by persistent taunts or other abusive behavior that military leaders have allowed to go uncorrected. It argues that service members can do little to combat the harassment, since reporting it often has brought more of the same, and even has prompted investigations into the sexual orientation of those being harassed.

"It has become an acceptable part of military culture to pick on and demean suspected gay service members and no one is held accountable for those actions," said Jill Szymanski, a 12-year Navy veteran who resigned last August as a lieutenant commander. She was one of four former military members who appeared at a SLDN news conference yesterday to relate personal experiences.

In its report, SLDN added that the news "is not all bad." It said physical abuse by military investigators has declined. Mass investigations have waned. And criminal prosecutions of homosexual service members have decreased.

New York Times
March 15, 1999

Gay Group's Study Finds Military Harassment Rising

By Steven Lee Myers

WASHINGTON -- Five years after the Clinton administration adopted its "don't ask, don't tell" policy for homosexuals in the military, incidents of anti-homosexual harassment have increased in each of the armed services, according to a legal group that represents gay men and lesbians.

In a report to be released on Monday, the group, the Servicemembers Legal Defense Network, says that persistent harassment has created a climate of fear in some units so severe that many gay men and lesbians have been forced to abandon military service, in contradiction of the policy's aims.

The group's report concludes that service members have little recourse to stop harassment, because reporting it often has invited more harassment and, in at least some cases, investigations into their sexual orientation.

"The best way to stop this harassment is to stand up and say, 'You're talking about me,' " said C. Dixon Osburn, an executive director of the organization. "But doing that, under the policy, means losing your job."

The policy, which took effect in 1994, explicitly allows gay men and lesbians to serve in the armed services, but it bars them from declaring their homosexuality or engaging in homosexual acts, like ceremonies signifying a couple's union.

A Pentagon spokesman, Col. Richard M. Bridges, declined to comment Sunday on the group's report, saying the Pentagon had not yet reviewed a copy. But he said it was not the Pentagon's policy to prosecute gay men or lesbians. "We are not out there searching for homosexuals," he said.

In January, the Pentagon reported that the Army, Navy, Air Force and Marine Corps discharged 1,145 gay men and lesbians in the 1998 fiscal year, a 13 percent increase from the year before and nearly double the number in 1993, the year before the "don't ask, don't tell" policy took effect.

At the time, officials attributed the increase to a rash of young men and women declaring their sexual orientation, often to get out of service after concluding that military life did not suit them. Rudy de Leon, the under secretary of Defense for Personnel and Readiness, said that 87 percent of the discharges resulted from voluntary declarations.

The service members' legal group disputed that, saying that many "statements" are in fact coerced in subtle and not-so-subtle ways.

"'Statements' include disclosures made to psychotherapists, in personal diaries, in response to direct questions about their sexual orientation, in anonymous online profiles and those coerced out of service members due to fear, intimidation, assaults, death threats and threats of criminal prosecution," the group's report says.

The group tabulated 400 instances of anti-homosexual harassment reported to its lawyers by service

members in the year that ended on Feb. 28, the anniversary of the policy's adoption, compared with 182 instances the year before.

There were 158 reports of harassment by members of the Navy in 1998, the report says, 122 in the Army, 54 in the Air Force, 63 in the Marines and three in the Coast Guard, the report said.

The group's report included lengthy accounts of harassment. David B. Raleigh, a marine discharged last year after two years in the Corps, said he had encountered hostility from the moment he entered the recruiting station. "The atmosphere is just intolerable," he said.

The group did cite signs of progress, noting there were fewer "mass investigations" and criminal prosecutions.

There are other indications that the issue has become less divisive.

An anecdotal survey of troops conducted by two sociologists, Charles C. Moskos of Northwestern University and Laura L. Miller of the University of California at Los Angeles, suggested a growing willingness to accept gay men and lesbians.

Their latest survey, involving interviews of troops serving in Bosnia, found 26 percent of servicemen said gay men and lesbians should be allowed to serve, compared with 15 percent in 1993, when the policy was being fiercely debated. Women seem more accepting, with 52 percent saying gay men and lesbians should be allowed to serve, compared with 33 percent in 1993.

"As the issue becomes less contentious," Moskos said, "the soldiers become more tolerant."

Article Title: The recruiting problem we don't talk about
Author(s): Thomas Strother, LCDR, Ret
Journal Title: U.S. Naval Institute Proceedings
Volume/Issue: 125 no 5
Date: May 1999
Page: 192
Subject: RECRUITING AND ENLISTMENT - Navy - United States
WOMEN IN THE NAVY - United States
HOMOSEXUALITY

Article Title: Air Force leads services in discharging gays
Author(s): Mike Glenn
Journal Title: Air Force Times
Volume/Issue: 59 no 27
Date: Feb 8 1999
Page: 18
Subject: HOMOSEXUALITY - Laws and Regulations
DISCHARGES, RELEASES, AND SEPARATIONS - Armed Forces

Article Title: The difference between can and should: Able v. United States and the continuing debate about homosexual conduct in the military
Author(s): John A. Carr, Capt
Journal Title: Air Force Law Review
Volume/Issue: 46
Date: 1999
Page: 1-71
Subject: HOMOSEXUALITY
DISCHARGES, RELEASES, AND SEPARATIONS - Armed Forces
MILITARY LAW - United States
SEX

Article Title: Survey: Troops more tolerant of gays, sex
Author(s): G.E. Willis
Journal Title: Air Force Times
Volume/Issue: 59 no 10
Date: Oct 12 1998
Page: 31
Subject: SURVEYS
HOMOSEXUALITY
SEX
PERSONNEL - Army - United States

Article Title: Are troops more tolerant on sex? Survey: Opposition to casual sex, homosexual orientation has softened
Author(s): G.E. Willis
Journal Title: Army Times
Volume/Issue: 59 no 10
Date: Oct 5 1998
Page: 20
Subject: HOMOSEXUALITY
SURVEYS
SEX

Article Title: Court rules military's gay policy is constitutional
Author(s): Nick Adde

Journal Title: Air Force Times

Volume/Issue: 59 no 9

Date: Oct 5 1998

Page: 15

Subject: COURTS - United States
HOMOSEXUALITY

Article Title: Homosexuals in the U.S. military: Open integration and
combat effectiveness

Author(s): Elizabeth Kier

Journal Title: International Security

Volume/Issue: 23 no 2

Date: Fall 1998

Page: 5-39

Subject: HOMOSEXUALITY

SEX - Laws and Regulations

ARMED FORCES - United States - Laws and Regulations

MORALE

COHESION

Article Title: Group says persecution of gays rising

Author(s): Nick Adde

Journal Title: Air Force Times

Volume/Issue: 57 no 33

Date: Mar 17 1997

Page: 22

Subject: HOMOSEXUALITY

DISCHARGES, RELEASES, AND SEPARATIONS - Armed Forces -
Statistics

Article Title: Investigators find no 'witch hunt' for gays

Author(s): Nick Adde

Journal Title: Air Force Times

Volume/Issue: 57 no 29

Date: Feb 17 1997

Page: 21

Subject: HOMOSEXUALITY

DISCHARGES, RELEASES, AND SEPARATIONS - Air Force

Article Title: Supreme Court could rule on gay ban in '97

Author(s): Nick Adde

Journal Title: Air Force Times

Volume/Issue: 57 no 23

Date: Jan 6 1997

Page: 34

Subject: HOMOSEXUALITY

CONSTITUTION - United States

LAWS AND LEGISLATION

Article Title: Discharges (of homosexuals) are down, Air Force says:
But group claims gays 'ferreted out'

Author(s): William Matthews

Journal Title: Air Force Times

Volume/Issue: 57 no 9

Date: Sep 30 1996

Page: 15

Subject: HOMOSEXUALITY

DISCHARGES, RELEASES, AND SEPARATIONS - Air Force -
Statistics

Article Title: ROTC (Reserve Officers Training Corps) at a turning
point

Author(s): Fred W. Decker, LtCol, Ret
Journal Title: Officer
Volume/Issue: 72 no 7
Date: Jul 1996
Page: 36-37
Subject: RESERVE OFFICERS TRAINING CORPS - Armed Forces
HOMOSEXUALITY

Article Title: How another military handles gay issue: Defense
ministry in Britain says ban is necessary
Author(s): Patrick Pexton
Journal Title: Air Force Times
Volume/Issue: 56 no 46
Date: Jun 17 1996
Page: 9
Subject: HOMOSEXUALITY
ARMED FORCES - Great Britain

Article Title: Activists condemn 2-year-old gay policy
Author(s): Nick Adde
Journal Title: Air Force Times
Volume/Issue: 56 no 32
Date: Mar 11 1996
Page: 12
Subject: HOMOSEXUALITY
DISCHARGES, RELEASES, AND SEPARATIONS - Armed Forces

Article Title: Rum, bum & the lash: Some thoughts on the problems of
homosexuality in the Royal Navy
Author(s): Louis Le Bailly
Journal Title: RUSI Journal
Volume/Issue: 141 no 1
Date: Feb 1996
Page: 54-58
Subject: SEX
HOMOSEXUALITY
NAVY - Great Britain - History
WOMEN IN THE NAVY - Great Britain

Article Title: Discharge rates rise despite the new policy (don't ask,
don't tell, don't pursue)
Author(s): Neff Hudson
Journal Title: Air Force Times
Volume/Issue: 56 no 27
Date: Feb 5 1996
Page: 10
Subject: HOMOSEXUALITY
DISCHARGES, RELEASES, AND SEPARATIONS - Armed Forces

Article Title: Is gay policy too strict?
Author(s): Nick Adde
Journal Title: Air Force Times
Volume/Issue: 56 no 26
Date: Jan 29 1996
Page: 8
Subject: HOMOSEXUALITY

Article Title: Homosexuality--can the armed services survive it?
Author(s): Georgina Natzio

Journal Title: RUSI Journal
Volume/Issue: 140 no 6
Date: Dec 1995
Page: 39-46
Subject: HOMOSEXUALITY

Article Title: 'Don't ask' ruling has 3 possibilities
Author(s): Nick Adde
Journal Title: Air Force Times
Volume/Issue: 56 no 20
Date: Dec 18 '95
Page: 30
Subject: HOMOSEXUALITY
DISCHARGES, RELEASES, AND SEPARATIONS - Air Force

Article Title: Survey: Male views on 'don't ask' are split
Author(s): Neff Hudson
Journal Title: Air Force Times
Volume/Issue: 55 no 26
Date: Jan 30 '95
Page: 17
Subject: HOMOSEXUALITY

Article Title: How the gay policy is faring
Author(s): Nick Adde
Journal Title: Air Force Times
Volume/Issue: 55 no 1
Date: Aug 8 '94
Page: 10
Subject: HOMOSEXUALITY

Article Title: Gays ousted from ROTC get break
Author(s): Neff Hudson
Journal Title: Air Force Times
Volume/Issue: 54 no 47
Date: Jun 27 '94
Page: 11
Subject: HOMOSEXUALITY
Reserve Officers Training Corps - Armed Forces

Article Title: Ask me no questions...(the Pentagon's newly implemented
"Don't Ask, Don't Tell" compromise)
Author(s): James Kitfield
Journal Title: Government Executive
Volume/Issue: 26 no 4
Date: Apr '94
Page: 49-51
Subject: HOMOSEXUALITY
SEX

Article Title: Pentagon to restrict, delay policy on gays
Author(s): Neff Hudson
Journal Title: Air Force Times
Volume/Issue: 54 no 28
Date: Feb 14 '94
Page: 15

Subject: HOMOSEXUALITY

Article Title: Rules on gays spur new concerns

Author(s): Neff Hudson; William Matthews
Journal Title: Air Force Times
Volume/Issue: 54 no 23
Date: Jan 10 '94
Page: 6
Subject: HOMOSEXUALITY

Article Title: Gays account for 1.2% of separations in '93
Author(s): Grant Willis
Journal Title: Air Force Times
Volume/Issue: 54 no 20
Date: Dec 20 '93
Page: 6
Subject: HOMOSEXUALITY

Article Title: Clinton gets go-ahead on gay policy
Author(s): Nick Adde; Soraya S. Nelson
Journal Title: Air Force Times
Volume/Issue: 54 no 14
Date: Nov 8 '93
Page: 29
Subject: HOMOSEXUALITY

Article Title: Defending the ban: Homosexuals and the coming court battle
Author(s): Eric L. Chase, Col
Journal Title: Marine Corps Gazette
Volume/Issue: 77 no 10
Date: Oct '93
Page: 25-28
Subject: HOMOSEXUALITY
SEX

Article Title: What to do? Changes leave gay rules muddy
Author(s): Grant Willis
Journal Title: Air Force Times
Volume/Issue: 54 no 12
Date: Oct 25 '93
Page: 4
Subject: HOMOSEXUALITY

Article Title: Actions against gays on hold--for now
Author(s): Rick Maze
Journal Title: Air Force Times
Volume/Issue: 54 no 11
Date: Oct 18 '93
Page: 4
Subject: HOMOSEXUALITY

Article Title: 'Don't ask, don't tell' awaits Hill vote
Author(s): Rick Maze
Journal Title: Air Force Times
Volume/Issue: 54 no 10
Date: Oct 11 '93
Page: 25
Subject: HOMOSEXUALITY

Article Title: Senators' bid to lift all restrictions on gays quelled
Author(s): Rick Maze

Journal Title: Air Force Times
Volume/Issue: 54 no 7
Date: Sep 20 '93
Page: 29
Subject: HOMOSEXUALITY
CONGRESS - United States

Article Title: Rand report: Avowed gays would not hurt readiness
Author(s): Grant Willis
Journal Title: Air Force Times
Volume/Issue: 54 no 5
Date: Sep 6 '93
Page: 4
Subject: HOMOSEXUALITY

Article Title: Homosexual policy announced
Author(s): Donna Miles
Journal Title: Soldiers
Volume/Issue: 48 no 9
Date: Sep '93
Page: 8-9
Subject: HOMOSEXUALITY
SEX

Article Title: 'Don't ask, don't tell, don't pursue'
Author(s): Dennis Steele
Journal Title: Army
Volume/Issue: 43 no 9
Date: Sep '93
Page: 39-40
Subject: HOMOSEXUALITY
SEX

Article Title: Hill poised to set in law Clinton policy on gays
Author(s): Rick Maze; Neff Hudson
Journal Title: Air Force Times
Volume/Issue: 54 no 1
Date: Aug 9 '93
Page: 6
Subject: HOMOSEXUALITY

Article Title: Lifting the gay ban: A chronology
Journal Title: Army Times
Volume/Issue: 54 no 1
Date: Aug 2 '93
Page: 16
Subject: HOMOSEXUALITY

Article Title: Don't ask, tell or pursue
Author(s): Grant Willis
Journal Title: Air Force Times
Volume/Issue: 53 no 52
Date: Aug 2 '93
Page: 4
Subject: HOMOSEXUALITY

Article Title: Israel drops all restrictions on homosexuals in
military

Author(s): Tom Philpott

Journal Title: Air Force Times
Volume/Issue: 53 no 52
Date: Aug 2 '93
Page: 14
Subject: Armed Forces - Israel
HOMOSEXUALITY

Article Title: (SecDef) Aspin: Gay 'orientation' is compatible with service
Author(s): Les Aspin
Journal Title: Air Force Times
Volume/Issue: 53 no 52
Date: Aug 2 '93
Page: 6
Subject: HOMOSEXUALITY

Article Title: Gay study proves their case, both sides say
Author(s): Grant Willis
Journal Title: Air Force Times
Volume/Issue: 53 no 50
Date: Jul 19 '93
Page: 6
Subject: HOMOSEXUALITY

Article Title: Homosexual issue (4 articles)
Author(s): Joseph C. Myers, Maj, and others
Journal Title: Army
Volume/Issue: 43 no 7
Date: Jul '93
Page: 37-44
Subject: HOMOSEXUALITY

Article Title: Fairness, combat readiness, and common sense
(homosexuals in the military)
Author(s): James D. Hessman
Journal Title: Sea Power
Volume/Issue: 36 no 7
Date: Jul '93
Page: 43-44
Subject: HOMOSEXUALITY

Article Title: Gay in government
Author(s): Rita Zeidner
Journal Title: Government Executive
Volume/Issue: 25 no 7
Date: Jul '93
Page: 10-13
Subject: HOMOSEXUALITY

Article Title: Homosexual assault: A clash of values
Author(s): Michael R. Lehnert, LtCol
Journal Title: Marine Corps Gazette
Volume/Issue: 77 no 6
Date: Jun '93
Page: 16-17
Subject: HOMOSEXUALITY

Article Title: Homosexual issue: Back to the seventies
Author(s): Michael D. Weltsch, Maj

Journal Title: Marine Corps Gazette

Volume/Issue: 77 no 6

Date: Jun '93

Page: 17-18

Subject: HOMOSEXUALITY

Article Title: Study: Lift penalties on private homosexual acts

Author(s): Grant Willis

Journal Title: Air Force Times

Volume/Issue: 53 no 46

Date: Jun 21 '93

Page: 8

Subject: HOMOSEXUALITY

Article Title: Squaring off on gays in the military

Author(s): Karen Jowers

Journal Title: Air Force Times

Volume/Issue: 53 no 44

Date: Jun 7 '93

Page: 53

Subject: HOMOSEXUALITY
BOOKS AND READING

Article Title: LTG Waller says lifting gay ban invites a "second-rate"
force

Author(s): Dennis Steele

Journal Title: Army

Volume/Issue: 43 no 6

Date: Jun '93

Page: 14

Subject: HOMOSEXUALITY

Article Title: Right to serve?

Author(s): James F. Kelly, Jr, CAPT, Ret

Journal Title: U.S. Naval Institute Proceedings

Volume/Issue: 119 no 5

Date: May '93

Page: 81-84

Subject: HOMOSEXUALITY

Article Title: House hearing on lifting gay ban is heated

Author(s): Grant Willis

Journal Title: Air Force Times

Volume/Issue: 53 no 41

Date: May 17 '93

Page: 4

Subject: HOMOSEXUALITY

Article Title: Gays in the military

Author(s): David Evans, LtCol, Ret, and others

Journal Title: U.S. Naval Institute Proceedings

Volume/Issue: 119 no 4

Date: Apr '93

Page: 88-100

Subject: HOMOSEXUALITY

Article Title: Premature and threatening harm

Author(s): Scott Shannon

Journal Title: Marine Corps Gazette

Volume/Issue: 77 no 4
Date: Apr '93
Page: 68-69
Subject: SEX
HOMOSEXUALITY

Article Title: No place for homosexuals
Author(s): Mark E. Cantrell, Capt
Journal Title: Marine Corps Gazette
Volume/Issue: 77 no 4
Date: Apr '93
Page: 64-73
Subject: SEX
HOMOSEXUALITY

Article Title: Pentagon starts review of gay ban
Author(s): Grant Willis
Journal Title: Air Force Times
Volume/Issue: 53 no 38
Date: Apr 26 '93
Page: 6
Subject: HOMOSEXUALITY

Article Title: Hearings to evaluate gay ban start
Author(s): Grant Willis
Journal Title: Air Force Times
Volume/Issue: 53 no 36
Date: Apr 12 '93
Page: 8
Subject: HOMOSEXUALITY

Article Title: That's cohesion--c-o-h-e-s-i-o-n
Author(s): Frederick J. Kroesen, Gen, Ret
Journal Title: Army
Volume/Issue: 43 no 4
Date: Apr '93
Page: 9
Subject: HOMOSEXUALITY

Article Title: 48 hours with AFSA (the Air Force Sergeants Association
takes homosexual ban stance to Capitol Hill)
Author(s): Michael Buckley
Journal Title: Sergeants
Volume/Issue: 32 no 3
Date: Apr '93
Page: 4-5
Subject: HOMOSEXUALITY
SEX
AIR FORCE SERGEANTS ASSOCIATION

Article Title: Admission of gays to the military: A singularly
intolerant act
Author(s): R.D. Adair, Maj; Joseph C. Myers, Maj
Journal Title: Parameters
Volume/Issue: 23 no 1
Date: Spring '93

Page: 10-19
Subject: ARMY - United States
HOMOSEXUALITY

Article Title: Women in combat, homosexuals in uniform: The challenge
 of military leadership
 Author(s): Richard H. Kohn
Journal Title: Parameters
 Volume/Issue: 23 no 1
 Date: Spring '93
 Page: 2-4
 Subject: HOMOSEXUALITY
 WOMEN IN THE ARMED FORCES - United States

Article Title: Understanding the contemplated change
 Author(s): George Roche
Journal Title: Marine Corps Gazette
 Volume/Issue: 77 no 3
 Date: Mar '93
 Page: 28
 Subject: HOMOSEXUALITY

Article Title: Homosexuals in the military: The hidden agenda
 Author(s): William S. Lind
Journal Title: Marine Corps Gazette
 Volume/Issue: 77 no 3
 Date: Mar '93
 Page: 29-30
 Subject: HOMOSEXUALITY
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Article Title: Not in this military! (Homosexuals in the military)
 Author(s): Donald Gammon, SMSgt, Ret
Journal Title: Sergeants
 Volume/Issue: 32 no 2
 Date: Mar '93
 Page: 4-6
 Subject: HOMOSEXUALITY
 SEX - Laws and Regulations
 Armed Forces - United States - Laws and Regulations
 MORALE
 DISEASES - Costs
 Defense Dept - United States - Laws and Regulations

Article Title: Pentagon seeks best way to integrate gays
 Author(s): Grant Willis
Journal Title: Air Force Times
 Volume/Issue: 53 no 28
 Date: Feb 15 '93
 Page: 4
 Subject: HOMOSEXUALITY

Article Title: Gay ban
 Author(s): Grant Willis
Journal Title: Air Force Times
 Volume/Issue: 53 no 27
 Date: Feb 8 '93
 Page: 3
 Subject: HOMOSEXUALITY

Article Title: Showdown: Fallout from the gay-ban controversy
Author(s): Rick Maze, and others

Journal Title: Air Force Times
Volume/Issue: 53 no 27
Date: Feb 8 '93
Page: 4
Subject: HOMOSEXUALITY

Article Title: Homosexuals need not apply
Author(s): S.H. Mellinger, SgtMaj
Journal Title: Marine Corps Gazette
Volume/Issue: 77 no 1
Date: Jan '93
Page: 23-24
Subject: HOMOSEXUALITY
MARINE CORPS - United States

Article Title: Disband the Marine Corps
Author(s): Arthur J. Corbett, Maj
Journal Title: Marine Corps Gazette
Volume/Issue: 77 no 1
Date: Jan '93
Page: 22-23
Subject: HOMOSEXUALITY
MARINE CORPS - United States

Article Title: (Gen) Powell: If ban of gays is lifted, troops must
accept it or resign
Author(s): William Matthews
Journal Title: Air Force Times
Volume/Issue: 53 no 25
Date: Jan 25 '93
Page: 16
Subject: Colin L. Powell, Gen
HOMOSEXUALITY

Article Title: France: Gays routinely avoid mandatory service
Author(s): Tom Philpott
Journal Title: Air Force Times
Volume/Issue: 53 no 23
Date: Jan 11 '93
Page: 20
Subject: HOMOSEXUALITY
Armed Forces - France

Article Title: Germany: Gays can find military tour unpleasant
Author(s): Steve Vogel
Journal Title: Air Force Times
Volume/Issue: 53 no 23
Date: Jan 11 '93
Page: 18
Subject: HOMOSEXUALITY
Armed Forces - Germany

Article Title: Britain: Out of the closet, out of the army
Author(s): William Matthews
Journal Title: Air Force Times
Volume/Issue: 53 no 23

Date: Jan 11 '93
Page: 20
Subject: HOMOSEXUALITY

Armed Forces - Great Britain

Article Title: Norway: Integrating gays, lesbians 'not an issue'
Author(s): Soraya S. Nelson
Journal Title: Air Force Times
Volume/Issue: 53 no 23
Date: Jan 11 '93
Page: 16-17
Subject: HOMOSEXUALITY
Armed Forces - Norway

Article Title: NATO members' policies on homosexuality
Journal Title: Air Force Times
Volume/Issue: 53 no 23
Date: Jan 11 '93
Page: 15
Subject: HOMOSEXUALITY
North Atlantic Treaty Organization

Article Title: Canada: Military latest to join gay-rights revolution
Author(s): Grant Willis
Journal Title: Air Force Times
Volume/Issue: 53 no 23
Date: Jan 11 '93
Page: 14
Subject: HOMOSEXUALITY
Armed Forces - Canada

Article Title: Gay experience: In Israel, service not totally open
Author(s): Tom Philpott, and others
Journal Title: Air Force Times
Volume/Issue: 53 no 23
Date: Jan 11 '93
Page: 10-13
Subject: HOMOSEXUALITY
Armed Forces - Israel

Article Title: Case against lifting the ban on homosexuals
Author(s): Robert L. Maginnis, LtCol
Journal Title: Army
Volume/Issue: 43 no 1
Date: Jan '93
Page: 37-39
Subject: HOMOSEXUALITY
MILITARY POLICY - United States

Article Title: New homosexual conduct policy explained
Author(s): Les Aspin; Jamie Gorelick
Journal Title: Defense Issues
Volume/Issue: 8 no 73
Date: '93
Page: 1-7
Subject: HOMOSEXUALITY

Article Title: Clinton on gays: Honorable compromise, sensible balance
Author(s): Bill Clinton

Journal Title: Defense Issues

Volume/Issue: 8 no 45

Date: '93

Page: 1-5

Subject: HOMOSEXUALITY

LEVEL 3 - 2 OF 92 STORIES

Copyright 1999 The New York Times Company
The New York Times

October 4, 1999, Monday, Late Edition - Final

SECTION: Section A; Page 18; Column 1; National Desk

LENGTH: 1039 words

HEADLINE: Gay and Lesbian Group Offers Thanks to Clinton

BYLINE: By JOHN M. BRODER

DATELINE: LOS ANGELES, Oct. 3

BODY:

Eight years ago this week, Bill Clinton, then Governor of Arkansas, sat down with a small group of gay and lesbian advocates in Hollywood and made modern political history by becoming the first major-party Presidential candidate to court gay support openly.

Seven months later, as the presumptive Democratic nominee, he left many of his gay supporters in tears at the Palace Theater in Los Angeles when he fervently declared to a large crowd, "I have a vision of America, and you are part of it."

Never before had gay and lesbian political power and personal identity been acknowledged so strikingly, and Mr. Clinton was handsomely rewarded. Gay men and lesbians raised nearly \$4 million for the Clinton-Gore campaign in 1992, and the Democratic ticket received more than 80 percent of their votes.

Despite rocky moments in the relationship -- particularly Mr. Clinton's inability to make good on his promise to end the prohibition on gay people serving in the military -- gay voters have remained deeply loyal to the President.

On Saturday night in Los Angeles, Mr. Clinton repaid their faith with an appearance at a black-tie fund-raising dinner sponsored by the largest gay political group in California.

The President received a two-minute standing ovation when he rose to speak at the dinner, sponsored by Access Now for Gay and Lesbian Equality, or Angle. His half-hour speech was frequently interrupted by applause.

Mr. Clinton gave a version of his standard stump speech but concluded with a meditation on the persistence of fear and violence based on race, ethnicity or sexual orientation. He cited the recent deaths of Matthew Shepard, a 21-year-old gay college student killed in Wyoming, and James Byrd, a black man dragged to his death in Texas, as evidence that America still had a lot to learn about tolerance.

"The biggest problem we've got is the primitive, age-old fear and hatred and



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The New York Times, October 4, 1999

dehumanization of the other -- people who aren't like us," Mr. Clinton said.

"People are still scared of people who aren't like them," he added. "And other people are scared of themselves, and they're afraid they won't count unless they've got somebody to look down on. And if you have to find somebody to look down on, it must be somebody that is different from you."

Mr. Clinton was warmly received even though he had angered many **gay** men and lesbians with his acceptance of the "don't ask, don't tell" compromise on **homosexuals** in the **military** and with his signing, in 1996, of the Republican-sponsored Defense of Marriage Act, which denied Federal recognition of same-sex marriages.

David Mixner, Los Angeles's premier **gay** political impresario, organized Saturday's event as a sort of homecoming party for the President, an expression of gratitude for his efforts to move homosexuals into the social and political mainstream of America. Dozens of openly **gay** officials serve in the Clinton Administration, and Mr. Clinton has moved to end antigay employment discrimination in the Government's civilian agencies, including the Federal Bureau of Investigation and the Central Intelligence Agency.

"We have had an extraordinary journey the last two decades," Mr. Mixner said in his emotional remarks introducing the President. "It has been a trail of tears. We have buried our dead and manned the barricades of liberty."

In a tribute to Mr. Clinton, a friend of his for 30 years, Mr. Mixner said: "Ever since 'The Canterbury Tales' -- strange crew that was -- people have been judged by their traveling companions. And we picked a good one in 1992."

Mr. Mixner said 286 of his friends had died of AIDS, and he spoke of the "rocky journey" **gay** people have had with the sympathetic but politically flexible President. Nonetheless, he said to the President, "It is time for us to say thank you tonight."

Nearly 1,000 people attended the dinner, held in the flower-bedecked ballroom of the Beverly Hilton Hotel. The event raised about \$850,000 for the Democratic Congressional Campaign Committee.

Mr. Mixner said in an interview that he and other **gay** leaders had decided to devote their energies and money to electing a Democratic House of Representatives. He said he had been appalled by the way House Republicans treated the President during impeachment proceedings and sickened by senior House Republicans' overt and subtle **gay**-bashing.

Mr. Mixner was jailed for his role in a 1993 protest in Washington over Mr. Clinton's position on the issue of **gay** people in the **military**. But he said the President had redeemed himself with **gay** voters over the course of his Presidency.

"I would be a fool indeed, one, not to speak up when I disagree, and two, not to acknowledge and celebrate the victories we have made and to offer thanks," Mr. Mixner said. "I am not a fool on either account."

Many of the leading Presidential candidates have recognized the power and wealth of **gay** voters and are explicitly seeking their support. Vice President Al



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The New York Times, October 4, 1999

Gore and former Senator Bill Bradley are courting votes and contributions. On the Republican side, Gov. George W. Bush of Texas, Senator John McCain of Arizona and Elizabeth Dole have all signaled an openness to gay supporters -- a major change from 1996, when Bob Dole, the Republican nominee, returned a \$1,000 donation from the Log Cabin Republicans, a gay group.

Mr. Mixner said in the interview that he supported Mr. Gore because of the Administration's record on gay issues, but that Mr. Bradley had made inroads with a declaration last month in support of the expansion of gay rights, including the right to serve openly in the military. Mr. Bradley repeated that declaration in a speech in Michigan on Saturday.

But Saturday night's dinner here was chiefly devoted to an expression of gratitude to Mr. Clinton as his tenure in office ticks down. The President acknowledged that he had been stymied in his efforts to broaden acceptance of gay men and lesbians by the opposition of Republicans in Congress, senior officers in the military and even some conservative Democrats, like former Senator Sam Nunn of Georgia.

"I wish I could have done better," Mr. Clinton said wistfully. "But we've done pretty well. And we're a long way from where we were."

<http://www.nytimes.com>

GRAPHIC: Photo: David Mixner introduced President Clinton on Saturday at the Access Now for Gay and Lesbian Equality fund-raising dinner in Los Angeles. (Associated Press)

LANGUAGE: ENGLISH

LOAD-DATE: October 4, 1999



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Copyright 1999 Globe Newspaper Company
The Boston Globe

January 9, 1999, Saturday ,City Edition

SECTION: NATIONAL/FOREIGN; Pg. A1

LENGTH: 1019 words

HEADLINE: Law professors fight military's gay policy

BYLINE: By Adam Pertman, Globe Staff

BODY:

The battle over gays and lesbians in the military is about to get new combatants: law professors across the country who complain that their schools are being coerced into allowing Pentagon recruiters on campus, thereby compromising their antidiscrimination policies.

This weekend, the professors are launching a drive to kill a federal law that cuts off millions of dollars in student aid to schools that bar on-campus military recruiters. The object, they said, will be simultaneously to challenge the statute in court and try to reverse it in Congress.

"This law is an ingeniously evil piece of legislation that has effectively pitted different constituencies of students and faculties against each other," said Alan Minuskin, a professor at Boston College Law School. He and several BC colleagues are helping spearhead a national effort to give colleges and universities the right - without being penalized - to ban recruitment because of the armed forces' "don't-ask-don't-tell" policy toward homosexuals.

Efforts to overturn the policy itself have consistently failed. The Supreme Court has refused appeals from discharged gay soldiers four times, and every federal appeals court that has ruled on the issue has upheld it.

Any college or university may prohibit military recruiting. But a statute approved with little attention two years ago, for which the final rules went into effect last November, would cut off specific categories of federal student aid to schools that treat Pentagon representatives differently from other employers.

Law school officials around the nation argued in interviews this week that the stakes go beyond where the armed services can recruit. They said they were offended that Congress was intruding into the decision-making process of private educational institutions.

US Representative Barney Frank, Democrat of Newton, went further. Noting that the law was championed by conservative Republicans, Frank said: "It's time



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for the rest of us to tell the right wing that they can't run the country."

Frank, who intends to lead the fight on Capitol Hill, will help formulate legislative and litigation strategy at a conference of the Association of American Law Schools in New Orleans this weekend.

Law school officials and professors stressed they would not object to on-campus recruitment if those involved signed the same nondiscrimination promises required of other prospective employers. The recruiters will not do that, however.

Though the statute applies to all colleges and universities, it is coming to a head at law schools because most either have longstanding nondiscrimination regulations of their own or belong to the Association of American Law Schools. Since 1990, that group had barred its members from dealing with entities that discriminate. It changed that rule last year, with words of scathing protest, in response to the federal law.

"The great majority of schools have now complied, but they've done so quite reluctantly . . . and clearly they hope to turn this around," said Carl Monk, executive director of the law school association.

Gerald Solomon, the former US House member who wrote the legislation, said that he understands the law schools' concerns but strongly disagrees with them. He said that a "states-rights advocate like myself" doesn't like intruding on private institutions, but believes that a more important constitutional consideration takes precedence.

"Providing for a common defense is most critical," Solomon, a New York Republican who retired from Congress after its last session, said. "We can't do that if we don't offer a real cross-section of Americans the opportunity to take up an honorable career in the military."

Only a few law schools, typically ones that receive few federal dollars in the targeted work-study and student-loan programs anyway, have refused outright to comply with the law. Nearly all of those that have complied, however, have also adopted "amelioration policies," as required by the law schools association as part of its rule change on military recruitment.

Those policies include simple procedures at law schools such as those at Catholic University and Boston University, where notices have been posted explaining that the recruiters' presence did not constitute the schools' endorsement of Pentagon policy. And they extend to far more aggressive demonstrations meant to create an inhospitable atmosphere for the recruiters, even while abiding by the letter of the law.

At the University of Miami Law School, which stood to lose \$200,000 in student aid, students who want information about serving in the Judge Advocate General Corps can't simply turn to their career-counseling office. Instead, they have to go to the school's library and request a special binder that the Pentagon is permitted to leave there, and only there.

Harvard Law School did not join the protest against the law; it simply declared that it was already in compliance. Harvard does not allow its



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career-services office to arrange space or give assistance for military recruitment, but individuals or organizations on campus can act as sponsors and provide logistical support.

No military recruiters have yet asked for accommodations at BC Law School, where a speech by Frank on the subject last November drew an overflow crowd and helped launch the effort to reverse the law. But the school, with \$1.5 million in grants and loans at stake, has adopted a policy comparable to Miami's.

"We have to let it be known that we feel this technique is deeply troubling," said James Rogers, the interim dean at BC Law. "It's not a matter of law schools saying we have objections to the military. . . . It's the pernicious fashion of holding students' financial aid hostage."

Told about efforts to fight the law, Solomon said he hadn't known about the protests. "I don't want to use terms like un-American or anything like that," he said from the lobbying firm in Washington where he now works. "But I think they really are trying to circumvent the law . . . and I resent it."

LANGUAGE: ENGLISH

LOAD-DATE: January 12, 1999



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The Courier-Journal (Louisville, KY.)

August 8, 1999, Sunday MET/METRO
Correction Appended

SECTION: NEWS Pg.01a

LENGTH: 1713 words

HEADLINE: Slain soldier had found his niche
'He was so proud of himself'

BYLINE: CHRIS POYNTER, The Courier-Journal

SOURCE: STAFF

DATELINE: KANSAS CITY, Mo.

BODY:

When Barry Winchell was a soldier at Fort Campbell, he would call his mother and stepfather in Kansas City and pretend something was awry.

'Mom, you'd better sit down because I've got to tell you something,' Winchell would say, sounding melancholy. Then, he'd gush over the phone, 'I've just won another award!'

Patricia and Wally Kutteles relished those calls. It seemed to them that he finally had found success.

Winchell had struggled through most of his 21 years. A dyslexic, he found school difficult and dropped out of high school his sophomore year. It wasn't until he joined the Army about two years ago that he found something he was good at, winning honors and being named best in his company at firing the .50-caliber machine gun. He was assigned to an elite unit that could deploy anywhere in the world in 18 hours.

'He was so proud of himself,' said Wally Kutteles, who raised Winchell since he was 5. 'People called him Top Gun.'

But what Winchell didn't tell his family was the other change in his life. He finally was accepting his sexuality. He was traveling off the post that straddles the Kentucky-Tennessee border to Nashville, Tenn., where he was making friends at gay bars and dating a man.

Winchell told a friend that he was starting to finally feel comfortable with himself.

But about 3 a.m. on July 5, he was brutally beaten in his barracks - and investigators are weighing whether his sexuality could have been a factor in the killing.



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A fellow soldier is accused of beating Winchell with a ball bat, allegedly encouraged by Winchell's own roommate.

Winchell never regained consciousness, and his parents hardly recognized his face, which was swollen "like a basketball," his stepfather said. Winchell died the following day at a Nashville hospital.

Pfc. Calvin Glover, 18, has been charged with premeditated murder, and Winchell's roommate, Spc. Justin Fisher, 25, has been charged with, among other things, encouraging Glover to strike Winchell. Glover's Article 32 hearing, the equivalent of a civilian grand jury, is set for tomorrow at Fort Campbell; Fisher's hearing is scheduled for Aug. 14.

Devastated by the murder, Winchell's family was then stunned to learn he was gay. Now, as the Army is about to lay out its findings, the family is struggling to understand how this could have happened.

Wally Kutteles, who served in the Korean War and had a man die in his arms, said that being killed in combat is expected, almost acceptable. But being slain in the barracks is neither.

"I really loved that boy," Kutteles said last month, his voice cracking and his eyes glazing with tears.

Different as a youth

Pat Kutteles said her son knew early on that he was different from other children, and it troubled him.

She remembered that when he was in elementary school, he had a medical test related to his dyslexia. Afterward, Winchell told his mother, "I'm not learning-disabled. If all the world learned the way I did, then you would be learning-disabled. I just learn differently."

Because of his disability, Winchell didn't start to read or spell until the third grade, but he found ways to compensate.

In the second grade, when Barry's teacher asked him to spell "go" on the chalkboard, he walked to the front of the classroom and drew a line with an arrow at the end.

"The teacher wrote us a note about that," Wally Kutteles said. "She said that was so clever of him to do that."

Indeed, he was a bright, creative child. When he was tested before enrolling in school, his mother said he was shown pictures of a suitcase, clothes and a cow. Asked what he would pack for a trip, Barry said the cow, "in case I got hungry."

He could examine drawings or blueprints and almost instantly know how to assemble products.

A few years later, his two older brothers, Sean and Ian, were putting together a bunk bed. Barry, then 7, watched, then told them, "You've got it



backwards.''

He was right.

Winchell enjoyed playing the piano, starting lessons at age 9, and as a teen-ager he formed a rock band with friends. But he struggled in class.

'He was hanging out with other kids that didn't excel,' his stepfather said. 'Some of the kids were good kids and some of them weren't so good. . . . He was smarter than they were, smarter than a lot of other kids that did excel.'

After dropping out, Winchell enrolled at Pinellas Technical Education Center in Clearwater, Fla., and studied welding. He wanted to further his skills at a Texas school for underwater welding, but he didn't have the money to attend. So he earned his general equivalency diploma and joined the Army in 1997, initially to qualify for a free education under the GI Bill.

Finds a place in life

A natural athlete and runner, Winchell thrived in basic training at Fort Benning, Ga. 'He enjoyed the physical training because it was a challenge,' his mother said.

He arrived at Fort Campbell in May 1998 as an anti-armor weapon operator and began thinking seriously of a career in the military. Before his death, he was studying for Warrant Officers School, where he would learn to pilot helicopters.

His interest in flying had been piqued during a training mission aboard a Blackhawk helicopter that flew low to the ground and outlined the terrain. 'Some of the guys got nauseated and sick, but he fell in love,' his mother said.

Winchell worked diligently at being a model soldier, his family said, and for the last six months had been memorizing field manuals and illustrations of the .50-caliber machine gun. Winchell sometimes corrected his superiors when they spoke about the gun, prompting one sergeant to call him 'The Encyclopedia,' his mother said.

In the living room of their Kansas City apartment, the family has created a shrine to their son and his military accomplishments.

A basic training photo of the clean-cut young man, gazing ahead stoically, hangs on the wall above a stuffed teddy bear, dressed in fatigues with Winchell's dog tags dangling from its neck. Winchell's family nickname was 'Bear,' short for Barry.

His honors - the Army Commendation Medal, Army Achievement Medal and Air Assault Badge, among others - sit on a shelf. An American flag, which draped Winchell's coffin, is tucked in a triangular wooden box. Shells from the 21-gun salute at the funeral are wrapped inside.

Since the death, Pat Kutteles has not slept more than a few hours at a time and has started smoking again. Last month, she sat at her kitchen table flipping through photos of her youngest son.



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'He loved his ribbons,' she said, pausing at a picture of Winchell at age 9 holding blue and red ribbons he won for sprinting at his school's annual field day.

'And that was him at the Blue and Gold dinner in Scouts, where he won an award,' she said, pointing to a photo snapped at a Boy Scouts banquet.

Finding himself, comfort

Winchell's friends in Nashville also have fond memories - of him hanging out on weekends, watching movies, listening to music. But they recall another aspect of his life.

Mark Friesland met Winchell about five months ago at The Connection, a gay bar in Nashville. Friesland, who served in the Army for 14 years, said Winchell was like many young people who are beginning to reveal their sexuality to others.

'It was neat for him to be away from home, and it was safe for him to explore himself,' said Friesland, 35. 'He tried to maintain a masculine and adult demeanor, but in many ways he was just a little kid.'

Friesland said Winchell viewed being a gay soldier as a novelty. He would tell people satirically, 'Don't ask, don't tell' - mocking the military's policy that says soldiers are not to reveal their sexuality and commanders are not to ask.

Winchell first visited The Connection on a Sunday night in March with his roommate, Fisher. Fisher had been to the bar the previous night and returned to Fort Campbell talking about female impersonators who performed at the club.

On his first visit, Winchell met Cal Addams, a performer who dresses as a woman in everyday life and goes by 'Calpernia.' The two immediately 'hit it off,' Addams said in an interview, in part because Addams had served in the Navy in the early 1990s. They began dating.

Addams said Winchell was kind and calm and a credit to the Army. 'He'd won many awards for marksmanship,' Addams said at a memorial service for Winchell last month in downtown Nashville. 'He spent hours on his uniform and studied military manuals constantly.'

Addams said Winchell told him that he had always struggled with his sexuality and found the gay community in Nashville to be 'a place where he could feel comfortable and feel supported.'

After Winchell began frequenting the Nashville bar, several of his fellow soldiers began asking him, 'Is it true you are gay? Is it true you are going to that queer club?' Addams said.

Winchell never felt threatened, Addams said, but he was uncomfortable with all the questions.

The Army has acknowledged that it is investigating whether Winchell's sexuality was a factor in his death. The Kuttles said they are waiting for the



Army to finish its work before drawing conclusions about what happened to their son - and why.

The only certainty they have now is their belief that their son had found success and could have achieved much.

'He could have planned battles, he might have been a general,' Wally Kutteles said.

Winchell's friends also mourn the tragedy that he died just as he was accepting that he was gay.

'Barry had been looking his entire life, he told me, for a way to feel comfortable with himself,' Addams said. 'He had only just begun to find that.'

Barry Winchell, shown with his mother after helping to stage a combat scene at Fort Benning, Ga., had thought of a career in the Army.

Caption: Winchell, a high school dropout, earned a general equivalency diploma to join the Army.

Caption: Winchell, who stood a head taller than most of his childhood friends and was dyslexic, knew he was different from other children, his mother said.

Caption: Barry Winchell, shown after his basic training in Georgia, was brutally beaten at Fort Campbell last month.

CORRECTION-DATE: September 1, 1999

CORRECTION:

Because of incorrect information from the Army, stories in The Courier-Journal about Calvin Glover, who is accused of beating to death a fellow Fort Campbell soldier, had his rank incorrect. He is a private.

GRAPHIC: FAMILY PHOTOS

LANGUAGE: English

LOAD-DATE: September 2, 1999



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LEVEL 3 - 37 OF 92 STORIES

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August 11, 1999, Wednesday, Final Edition

NAME: BARRY WINCHELL

SECTION: A SECTION; Pg. A01

LENGTH: 1563 words

HEADLINE: Hate May Have Triggered Fatal Barracks Beating; Slain Soldier Had Been Taunted on Base as Secret Emerged About His Sexuality

BYLINE: Sue Anne Pressley, Washington Post Staff Writer

DATELINE: FORT CAMPBELL, Ky., Aug. 10

BODY:

Pfc. Barry Winchell enjoyed being a soldier. He studied military manuals, relished the physical training. He was so accurate at firing a .50-caliber machine gun that he was named best in his company, and someday, he vowed, he would be one of the best helicopter pilots in the Army.

But Winchell, 21, also had a secret that was becoming known among the other soldiers in his unit: He was **gay**.

That realization may have cost the young soldier his life, **gay** rights groups believe.

During the early-morning hours of July 5, Winchell was brutally beaten with a baseball bat in his barracks here at one of the nation's largest Army bases, allegedly by another soldier in his unit while his own roommate encouraged the attack. The next day, Winchell, his face swollen beyond recognition, died at a civilian hospital.

Although Army officials have not disclosed a motive for the attack -- Winchell had gotten the best of the soldier in a fight a few days before the killing -- local and national **gay** rights groups contend there is mounting evidence that Winchell was the victim of a hate crime. If true, they said, this would be the first known case of a soldier being killed at a U.S. military base because of his sexual orientation in the five years since a new federal policy was adopted toward **gays** in the **military**.

In the era of "Don't ask, don't tell, don't pursue" -- the law passed by Congress that took effect in 1994 and allows **gay** service members to serve as long as their sexual orientation is not discovered -- the Winchell case illustrates the deep-seated prejudices that continue to plague **gays** in the **military**. It also has placed the Army and Fort Campbell, home of the celebrated



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101st Airborne Division, the Screaming Eagles, in an uncomfortable spotlight.

Officials at Fort Campbell, which sprawls across the Kentucky-Tennessee border and has nearly 24,000 military personnel, have had little comment about the slaying. Maj. Pamela Hart, a spokeswoman for the base, said the probe is ongoing, with investigators "looking into all rumors and reports."

But during the last six months of his life, Winchell apparently was taunted frequently by fellow soldiers and superiors who had learned of his homosexuality, according to service members who testified this week at a court hearing and his friends. Lawyers and potential witnesses in the case are under a gag order forbidding them to speak to reporters, but a picture began to emerge nonetheless of an environment where a macho image is still highly valued and where a slur for a male homosexual was used freely as an insult. Alcohol in excessive amounts also apparently played a large role in the tragedy.

"Pretty much everybody in the company called him derogatory names," said Sgt. Michael Kleifgen, Winchell's section leader, in sworn testimony today. "Basically, they called him a 'faggot' and stuff like that. I would say on a daily basis. . . . A lot of times, he was walking around, down in the dumps."

Pvt. Calvin N. Glover, of Sulphur, Okla., has been charged with premeditated murder in Winchell's slaying. This week's Article 32 hearing, comparable to a grand jury hearing in civilian court but open to the public, was held to determine whether enough evidence exists to court-martial Glover.

A second soldier, Spec. Justin R. Fisher, 25, of Lincoln, Neb., was later charged with being a principal to premeditated murder and acting as an accessory after the fact, among other charges. Fisher was Winchell's roommate in Delta Company, 2nd Battalion, 502nd Infantry regiment.

Several soldiers testified this week that Glover and Fisher were heavy drinkers, perhaps alcoholics. Pfc. Arthur Hoffman said that Glover, in particular, who at 18 cannot drink legally, became unpleasant and "aggressive" when he had been drinking.

Winchell, a native of Kansas City, Mo., was described by friends as a quiet young man with a masculine demeanor and down-to-earth attitudes. Although he had dated women exclusively in the past, he confided to friends that he had long questioned his sexuality and had been curious about gay life. His mother and stepfather, Patricia and Wally Kutteles, told the Louisville Courier-Journal that they were stunned to learn only after his death that he was gay.

Rumors about Winchell began to circulate widely through his platoon some six months ago after Fisher informed Sgt. Kleifgen that he had seen a soldier, whom he did not identify, at the Connection, a nightclub 60 miles away in Nashville that has a large gay clientele. Kleifgen told investigators today that he and a staff sergeant immediately went through a list of their soldiers and "asked every Pfc. in the company where they were that weekend."

"We figured out it was Winchell. I asked Winchell if he was gay. He said no," Kleifgen said, as gay rights activists in the audience gasped at the apparent flouting of the "don't ask, don't tell" law.



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At first lauded as an advancement in relations between gays and the military, the law instead has received mixed reviews as many gay rights groups say that hostilities have only increased since its adoption. In this case, gay rights groups fear, soldiers who come forward with information could be subjecting themselves to questions about their own sexuality.

Incidents of gay harassment have increased every year since 1994, according to the Servicemembers Legal Defense Network, a Washington-based group that assists gays in the military. Last year alone, reported incidents increased 120 percent over 1997, according to an annual report released by the group.

Although much of the compiled evidence that a hate crime occurred in the Winchell case has been "anecdotal," according to Clarence Patton of the New York City Gay and Lesbian Anti-Violence Project, "our antenna always goes up when someone known to be gay or lesbian is the victim of a violent crime."

"In hate crimes," he said, "there are certain indicators -- an element of overkill. . . . I do not believe this was an ordinary fight. That does not ring true."

Gay rights advocates say they want the military to more vigorously investigate soldiers harassed because of sexual orientation. They say doing so can prevent it from escalating to physical violence.

Since March, Winchell had been involved in a relationship with a performer at the Connection, a self-described preoperative transsexual named Cal "Calpernia" Addams, who attended this week's hearings dressed as a woman.

"When I heard what had happened, I thought, 'Oh God, they've killed him because he was dating me,'" said Addams, a former Navy medic who served in the Persian Gulf War.

Hostilities in Winchell's unit apparently began to reach a peak on the evening of July 3 when he and Glover, who had been drinking, got into a fistfight, which Winchell won handily. Hoffman said that Glover had been bragging about his exploits when he was challenged by a disbelieving Winchell.

"He [Glover] was trying to make himself sound like a bad [guy]," Hoffman said. "The stories were pretty out there. . . . Winchell kicked Glover's [butt]. It was a long time coming."

Later, Glover may have been teased by other soldiers about his defeat, said Kathi Westcott, a staff lawyer with the Servicemembers Legal Defense Network. Several soldiers reported to the group, she said, that "Glover was taunted basically for getting his [butt] kicked by a [gay man]."

Chief Warrant Officer Alfred Brown, a special agent for Fort Campbell's Criminal Investigation Division, testified that soldiers told him that Glover had vowed to "get even, kill him."

The next day, July 4, alcohol was flowing freely in the barracks, as many of the soldiers in the company emptied a keg of beer. Winchell, Glover and Fisher were drinking heavily, other soldiers reported. Several said they last saw Fisher and Winchell at about 2 a.m. on July 5, sitting at a picnic table outside the barracks.



By 3 a.m., the fire alarm in the barracks was clanging and men were piling out of their rooms, stunned to learn that Winchell was gravely injured. Fisher raced into the room shared by Pfc. Jonathon Joyce and Pfc. Nikita Sanarov, yelling that "Winchell's dying."

The two men said they saw a blood-splattered Winchell lying unresponsive in a second-floor hallway. Sanarov, who ran outside to get his car at Fisher's request, said he first saw Glover running from Winchell's barracks toward his own barracks. A few minutes later, Sanarov said he saw Glover sprinting toward a trash bin with what appeared to be an armful of clothing.

Investigators later found Glover in his room, along with a bloodstained shirt and blood smears on the door.

After Glover's arrest, Pfc. Ryan Futch, who guarded the soldier, said he overheard Glover and another prisoner exchanging epithets against blacks and homosexuals. Futch said Glover told him that he had beaten Winchell with a bat.

If Glover is court-martialed and found guilty, he will face life in prison.

In death, it seems, Pfc. Barry Winchell's secret was finally and fully exposed. At a memorial service in Nashville last month, Cal Addams spoke about what "a kind, calm gentleman" Winchell had been. Behind him, four people in civilian dress held aloft an American flag -- while four others held the rainbow banner, a symbol of the gay rights movement.

GRAPHIC: MAP,,TWP

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August 11, 1999, Wednesday, Late Edition - Final

SECTION: Section A; Page 1; Column 1; National Desk

LENGTH: 1868 words

HEADLINE: Gay Voters Finding G.O.P. Newly Receptive to Support

BYLINE: By KATHARINE Q. SEELYE

DATELINE: WASHINGTON, Aug. 10

BODY:

Prominent Republican candidates for President are creating an atmosphere that is subtly but fundamentally more inviting to gay and lesbian voters than party leaders have been in recent memory.

Gov. George W. Bush of Texas, Senator John McCain of Arizona and Elizabeth Dole, former president of the American Red Cross -- who combined have the lion's share of support among Republicans in early polls -- have all signaled an openness to gay supporters, including a willingness to appoint them to positions like ambassadorships in their Administrations.

The new receptivity toward gay voters follows a similar nonantagonist approach by leading Republicans on abortion. While they still oppose abortion and are by no means converts on other gay rights issues like same-sex marriage, the most prominent candidates are offering a lower-key, more inclusive approach designed to appeal beyond the conservative base of the party to independent and Democratic voters. It also reflects the continued growing political influence of gay donors and gay voters across party lines.

The new message on gay supporters is a far cry from 1996, when Bob Dole, the Republican nominee, returned a \$1,000 donation from the Log Cabin Republicans, a group of gay party members, and from 1992, when the dominant voice on the issue from Republicans was that of Patrick J. Buchanan, whose declaration of a "culture war" was aimed squarely at homosexuals.

Many of the more conservative candidates have not changed their views, and even Mr. Bush, Senator McCain and Mrs. Dole have not embraced a broader agenda that includes adoptions by gay people and a less punitive approach toward homosexuals in the military. But gay political leaders say the difference in attitude is striking nonetheless.

"The tone has totally changed," said Rich Tafel, executive director of the Log Cabin Republicans. "What I hear is gay Republicans enthusiastic about the tone being set by the leading candidates. It looks like Republicans for the first time are saying, 'This is a community I'm not going to alienate and maybe I want to reach out to it.' That's kind of a shocking revelation."



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Democrats, of course, have courted gay voters for years, and this year both Vice President Al Gore and former Senator Bill Bradley, the two rivals for the Democratic nomination, are competing for their support. Both campaigns have fund-raisers working expressly with gay donors, who tend to be generous financially and active politically.

On the Republican side, though, this rapprochement is new. Mr. Bush, so far the run-away favorite in the Republican field, has said he would have no qualms about hiring homosexuals. "If someone can do a job, and a job that he's qualified for, that person ought to be allowed to do his job," he said earlier this year.

Senator McCain, who has appointed Representative Jim Kolbe of Arizona, the only openly gay Republican in the House, to his national steering committee, has similarly said he would hire on merit alone. He has supported anti-hate-crimes legislation that would protect victims of crime not only because of their race but their "sexual orientation." He has said that someday he could envision a gay President.

Mrs. Dole has said she would appoint to her Administration anyone who was qualified, emphasizing in an NBC interview last month that "all people are welcome" and adding: "I'm inclusive." Of the contribution her husband spurned in 1996, Mrs. Dole said that if she received a check from the same group, "I would not turn it away."

William Kristol, who was chief of staff to Vice President Dan Quayle and now is editor of the conservative Weekly Standard, said that the mainstream Republican candidates this year were unhappy under the banner of strident, anti-gay language.

"The Republican establishment does not want to fight the conservative culture war," Mr. Kristol said, "partly because they think it's a losing fight but more importantly, they don't believe in it."

Outside the party establishment, some conservatives remain adamantly opposed to gay rights. Gary Bauer and Alan Keyes, make their rejection of homosexuality a major plank of their platforms. Mr. Bauer said recently that when he heard Senator McCain say the party should be "a big tent that admits everybody," the phrase sounded to him "like fingernails on a chalkboard."

Steve Forbes, the wealthy publisher and candidate, flatly opposes any concessions to gay voters. He frequently says he wants "equal rights for all, special rights for none." Asked if Mr. Forbes would appoint an openly gay person to his Administration, his campaign manager, Bill Dal Col, said: "If the person is qualified for the job, that's fine as long as it is not a statement on a life style or promoting a life style." As for gay adoptions, Mr. Dal Col said: "There are plenty of heterosexual couples out there," and existing laws against hate crimes are enough.

The Rev. Louis P. Sheldon, a staunch conservative who heads a national group called the Traditional Values Coalition and who has denounced homosexuals often in his career, denied that there was an effort among Republicans to reach out to gay voters.

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The New York Times, August 11, 1999

Noting that the Republican Presidential candidates oppose **homosexuals** in the **military** and same-sex marriages, Mr. Sheldon said that "there aren't that many Log Cabin voters out there." He added: "There is nothing immutable about sexual behavior -- it is chosen."

Still, anti-gay sentiment is less strident this year. Many Republicans avoid the matter. Brian Kennedy, the national political director for former Gov. Lamar Alexander of Tennessee, said: "He neither brings up those issues in his stump speech nor do we ever recall him being asked about it. It doesn't seem to be on the radar screen for the '99 cycle."

Bob Adams, spokesman for Mr. Buchanan, said that although the candidate "has certainly not abandoned the culture war," the anti-gay sentiment of past campaigns had changed. "It hasn't come up, and we haven't been making it an issue," he said.

Even Mr. Quayle, a social conservative who has aggressively promoted "family values," has shown moderation toward **homosexuals**. Asked on a radio program last month what he would do if one of his children were **homosexual**, he said he would support them "whatever they are."

While he avoided answering specific questions about **homosexuals** in the **military** and **gay** adoptions, Mr. Quayle also said: "Life-style orientation really makes no difference to me at all. Believe me, I don't inquire what one's sexual preference may or may not be." He repeated his view that homosexuality is a choice but did not say, as he did in 1992, that it was "a wrong choice."

Mr. Kristol said most Republicans were still being careful in their statements because they did not want to alienate the grass-roots conservatives who believe homosexuality is a sin. But the candidates' tempered tone, he said, poses a dilemma for conservative voters. "The question is, Do conservatives want to win so badly that they will accept this kind of establishment leadership?" he asked. "Or have they, too, given up on the culture war? Do they want a political champion for their views?"

Since **gay** voters emerged several years ago as a significant voting bloc, Republicans ceded them to the Democrats. About 5 percent of voters in 1996 identified themselves in polls of people leaving voting booths as **homosexual** -- "about the same percentage as Hispanics and larger than the Jewish vote," said Elizabeth Birch, executive director of the Human Rights Campaign, the nation's largest **gay** and lesbian lobbying group.

Mr. Tafel, who is organizing **gay** Republican voters to participate in the Iowa straw poll on Saturday and is seeking a slot for an openly **gay** speaker at the Republican national convention next year, said that the party was finally recognizing the influence of the **gay** electorate. "It's the first time we haven't been taken for granted" as likely Democrats, he said. His group has yet to make an endorsement or give any money to any candidate, but it plans to do so closer to next year's convention.

Also making the **gay** vote more available to Republicans this year is the fact that liberal Democrats have not been entirely happy with the Clinton Administration's record on **gay** issues. They have complained about the level of financing for the treatment of AIDS, the opposition to **gay** marriage and the murky "don't ask, don't tell" policy that has allowed a record number of



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The New York Times, August 11, 1999

discharges of **homosexuals** from the **military**. Such discharges increased 86 percent over the last five years.

Alert to the potential appeal of Republicans who refrain from broad cultural attacks, Democrats are warning that the Republicans are not as tolerant as they may appear. Pat Ewing, a senior adviser at the Democratic National Committee, said of Mr. Bush: "He is purposefully vague, not moderate. Bush denied Texans protection from hate crimes and let it be known that he opposed any provision to protect **gays** and lesbians from these crimes. His platitudes are meant to obscure."

Karen Hughes, a spokeswoman for Mr. Bush, said he objected to the hate-crimes legislation because "all violent crime is motivated by hate" and Texas already has a law that covers such crimes. But, she said, he also did not believe that sexual orientation should be singled out for special rights. "He doesn't believe in granting legal rights based on sexual orientation," she said.

Mr. Gore has made an extra effort to appeal to **homosexuals**. In one of his rare departures from Clinton orthodoxy, he has called for a more "compassionate" -- though unspecific -- approach to **homosexuals** in the **military**.

In California, which is likely to have a ballot initiative next year to outlaw same-sex marriage, Mr. Gore said he favored legal protections for same-sex partners, like health benefits and hospital visitation rights, but he opposed "a change in the institution of marriage as we now know it between men and women."

The Vice President would leave **gay** adoptions up to adoption professionals on an individual basis, his spokesman, Chris Lahane, said.

Democrats acknowledge that Mr. Gore and Mr. Bradley have virtually identical records on **gay** issues. Eric Hauser, a spokesman for Mr. Bradley, said he supported a review of the "don't ask, don't tell" policy on **gays** in the **military**. He also supports **gay** adoptions and extending legal rights, including health benefits and hospital visitation, to same-sex partners as "common sense" measures.

When Mr. Bradley was in the Senate, he voted for the so-called defense of marriage act, which said no state had to recognize the same-sex laws of another state. Likewise, President Clinton signed the bill into law, and Mr. Gore "stood beside him" in supporting it, Ms. Birch said.

Although Mr. Gore has been outspoken in favor of **gay** issues, he has also been subjected to **gay** demonstrators. AIDS activists have turned up, noisily, at several campaign events, accusing him of siding with drug companies and trying to block South Africa's access to cheaper generic drugs to fight H.I.V. His staff says this is an international patent issue and he is trying to work it out.

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August 14, 1999, Saturday, Late Edition - Final

SECTION: Section A; Page 6; Column 5; National Desk

LENGTH: 1153 words

HEADLINE: Revised Military Guidelines Fail to Quell Gay Concerns

BYLINE: By PHILIP SHENON

DATELINE: WASHINGTON, Aug. 13

BODY:

The Pentagon today announced its first major revision of guidelines for its "don't ask, don't tell" policy on **homosexuals** in the **military**, including a new requirement that commanders seek approval from senior civilian officials at the Pentagon before opening certain types of investigations of troops who acknowledge that they are **gay**.

The revised guidelines failed to satisfy **gay** rights advocates, who say that the new directives do not go far enough and that pervasive hostility toward **homosexuals** in uniform continues to result in violent harassment. They pointed to the murder last month of an Army private in Kentucky as evidence of the entrenched hostility.

Under the guidelines, the Pentagon ordered that commanders institute anti-harassment training at all levels of the military, beginning with basic training, and that low-level military lawyers consult with senior lawyers before opening an investigation of anyone suspected of being **gay**.

The new directives also require commanders to seek approval from the military secretary that they serve -- the Army Secretary, in the case of an Army commander -- before opening an investigation in the dozen or so cases a year when "a service member made a statement regarding his or her homosexuality for the purpose of seeking separation" from the service.

The requirement appears to have been designed to answer criticism from **gay** rights advocates that the **military** has conducted intrusive investigations into the sex lives of troops who admit their homosexuality and are preparing to leave the service.

The investigations, the advocates charge, are an effort to find damaging information that can be used to force troops to pay back military scholarships and other benefits.

"I've made it clear there is no room for harassment or threats in the military," Defense Secretary William S. Cohen said in issuing the directives, which the Pentagon described as an effort to spell out the policy more clearly to avoid abuses.



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"I've instructed the military services to make sure that the policy is clearly understood and fairly enforced," Mr. Cohen said. "The department is determined to implement the homosexual conduct policy with fairness to all concerned."

While the five-year-old "don't ask, don't tell" policy was designed by the Clinton Administration to make it easier for homosexuals to serve in uniform, gay rights advocates contend that the instances of anti-gay harassment in the military have increased.

And the numbers of gay and lesbian soldiers facing discharge from the service has grown dramatically under the policy. Last year, 1,145 people were discharged from the armed services for homosexuality, compared with 997 in 1997 and 617 in 1994, the year the policy took effect.

The military continues to bar openly gay people from serving in uniform. Under the policy, homosexuals can serve in the armed forces as long as they do not discuss their sexual orientation, and commanders are barred from asking troops whether they are gay.

The new guidelines also remind commanders that they cannot begin investigations of the sexual orientation of troops without credible information, that they must promptly investigate when troops complain that they are being taunted because of the perception or accusation that they are gay, and that those troops cannot be the subject of retaliation for filing complaints.

They also for the first time give a specific order to internal investigators in each of the branches of the military -- the inspectors general -- to review whether commanders and military lawyers are properly carrying out the "don't ask, don't tell" policy.

The new directives were the subject of heated last-minute negotiations today between the Pentagon and the Servicemembers Legal Defense Network, a prominent Washington group that represents soldiers who are prosecuted over their perceived sexual orientation.

The Defense Network has considerable clout in the White House, especially on the staff of Vice President Gore, who is heavily courting homosexuals in his campaign for the Presidency.

"The Pentagon's new guidelines seek to insure fairness, leave no room for harassment and insure the law is better understood," said Alejandro Cabrera, a Gore spokesman. "The Vice President has said that he believes the current policy should be implemented with more compassion. He supports every effort to that end."

Michelle M. Benecke, a retired Army captain who is co-director of the Defense Network, said that while the group was pleased with the wording of Mr. Cohen's statement and with some elements of the directives, the new guidelines would leave many members of the military vulnerable to harassment and violence. "This is not a new day," Ms. Benecke said.

She said the guidelines, which have been delayed for months, did not provide



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the detailed direction to commanders that might prevent the kinds of abuse that appear to have led to the death last month of a soldier at Fort Campbell, Ky.

The soldier, Pfc. Barry Winchell, was allegedly beaten with a baseball bat by a member of his unit after his homosexuality became known on the base, one of the nation's largest.

"Pfc. Winchell is only the latest example of the severe anti-gay harassment that service members face every day," Ms. Benecke said.

"We've pressed Secretary Cohen for two years now to tell commanders the investigative limits and how to properly implement these policies, and there's nothing in the package today that does that," she said. "What's here is inadequate to address the magnitude of the problem."

Kenneth Bacon, the Pentagon's senior spokesman, said as a result of today's negotiations with the Defense Network, changes had been made in the wording of one of the guidelines issued today.

The draft of the guidelines had called for low-level military lawyers to consult with "the general court-martial convening authority," a military term referring to senior lawyers in the military criminal justice system, before opening an investigation of a service member's sexual orientation.

Those words were replaced with "senior legal officers at higher headquarters," which Mr. Bacon said was an effort to remove any implication that the investigations were being handled as criminal proceedings. "We did not mean to leave that impression so we changed it," he said.

David M. Smith of the Human Rights Campaign, the nation's largest gay rights group, said that while the Pentagon's new guidelines were "welcome, in and of themselves they are not going to solve the problem."

"What it's going to take is a commitment from uniformed and non-uniformed leadership through the armed services stating unambiguously and clearly that anti-gay harassment will not be tolerated under any circumstances," Mr. Smith said. "It's shameful that it has taken a tragedy such as Private Winchell's death to wake up the leadership to this problem."

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August 26, 1999, Thursday, Late Edition - Final

NAME: Steve May

SECTION: Section A; Page 1; Column 1; National Desk

LENGTH: 1753 words

HEADLINE: An Unlikely 'Don't Tell' Target: Lawmaker May Face Discharge

BYLINE: By JAMES STERNGOLD

DATELINE: PHOENIX, Aug. 24

BODY:

By his own account, Steve May knew from the time he was in his early teens that he wanted to be a politician, specifically a conservative Republican politician. He carefully built his life, he says, to shape an attractive resume, from his decision to enter R.O.T.C. in college and then serve as an Army officer to his efforts at building a track record as a small-business man, helping run his family's herbal-tea and natural-foods company here.

It worked. Mr. May served with distinction as a lieutenant on active duty in the Army and then entered the Reserve, and last November he was elected to the State Legislature, to represent the affluent, conservative district where he had grown up.

Everything seemed to be going just right until this winter, when the usually affable and measured 27-year-old Mr. May bitterly spoke his mind in the Arizona House, this time not as a Republican legislator, a Mormon or a soldier, but as an openly gay man.

He denounced an ultimately failed bill that would have barred the use of public funds to pay for health benefits of same-sex partners, and also attacked the legislation's conservative sponsor, Representative Karen S. Johnson, a fellow Republican who had condemned **homosexuals** as immoral.

Mr. May's remarks were widely quoted here and were followed by a cover article in Phoenix New Times, an alternative magazine, that discussed everything from his youthful realization that he is **gay** to how he had met and dated his companion, who lives with him. The upshot was that he not only angered many conservatives in his party by suggesting that Ms. Johnson was bigoted but also brought on himself one of the more unusual investigations under the Clinton Administration's "don't ask, don't tell" policy toward **homosexuals** in the military.

Under that policy, recruiters are barred from asking applicants about their sexual orientation, and commanders are forbidden to undertake investigations of suspected homosexuality unless there is significant evidence of **homosexual**



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conduct.

On the other hand, **homosexuals** are forbidden to disclose their orientation in a public setting; indeed, their doing so is considered evidence of at least an intent to engage in **homosexual** acts.

Col. John R. Hawkins 3d, the spokesman for the Army Reserve, acknowledges that an investigation of Mr. May is under way, to determine whether his remarks are grounds for discharge.

Colonel Hawkins says the inquiry should come as no surprise, given the public nature of the case.

"I don't think that the individual has been, shall we say, keeping this under wraps, as to his sexual orientation," the colonel said.

In addition, Mr. May, who was first "outed" as **gay** when he ran unsuccessfully for the State Senate three years ago, faces the possibility that the increased publicity about his homosexuality, as well as his scuffling with party leaders, will hurt his chances of winning re-election next year.

Mr. May said he had never hidden his sexual orientation; in fact, he joined the board of the Log Cabin Republicans, a nationwide organization of **gay** party members, after his State Senate run. But he always chose to identify himself with other issues, like education, rather than **gay** rights.

Then, after long doing everything "right," he says, he faced a perhaps inevitable choice when he heard **gay** men denounced during the health-benefits debate in February as disease-ridden dangers to the family who were doomed to ghastly early deaths.

During his outburst in the House, he acknowledged that it might have been politically wiser to keep quiet. "But when you attack my family," said Mr. May, whose father was once a bishop in the conservative Mormon Church, "and you steal my freedom, I will not sit quietly in my office. This Legislature takes my **gay** tax dollars, and my **gay** tax dollars spend the same as your straight tax dollars. If you're not going to treat me fairly, don't take my money."

That was followed by a string of newspaper articles, and later a confrontation with the Army in which he was informed of the investigation against him.

The sheer volume of Mr. May's public remarks on the matter makes this a highly unusual case, said Stacey Sobel, a senior attorney at the Service Members Legal Defense Network, an organization based in Washington that advises troops who are faced with inquiries about their sexual orientation. Ms. Sobel said that in some instances, the "don't ask, don't tell" policy had been pursued so aggressively by commanders that comments made by a soldier in entirely private conversations had, when disclosed, been used as a basis for discharge.

"Because what he's said has been published in newspapers," Ms. Sobel said of Mr. May, whom she has been advising, "it can be considered credible information, and that passes their test for what can be used against him."

Other factors that make the case unusual, she said, are that it involves an



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elected official -- the only one she knows of who is a target of such an investigation -- and that it is aimed at a reservist rather than an active-duty soldier.

Mr. May says the absurdity of the policy and his situation is evident in the fact that he was officially told he was under investigation and confronted by a military legal officer right after a three-day exercise earlier this month in Flagstaff. That meeting, he said, came shortly after he had been told that he might be taking command of the transportation company in which he serves.

"This isn't about gay rights," Mr. May maintained. "It's about the security of the nation. The issue for me as a policy maker is I want to make sure the nation is aware of the dangers this policy creates for our military preparedness."

Even as the military faces continuing shortages in personnel, the policy on homosexuals, which was supposed to protect them from harassment, has resulted in growing numbers' being discharged, according to Pentagon figures: last year 1,145 members of the armed services were discharged for homosexuality, up from 997 in 1997 and 617 in 1994, when the "don't ask, don't tell" policy took effect.

Earlier this month the Pentagon, faced with gay rights groups' mounting criticism over those numbers, announced that it was revising the guidelines for carrying out the policy. The guidelines will require that many of the inquiries like the one undertaken against Mr. May be conducted by senior officers. Among the other provisions are that troops receive anti-harassment training throughout their careers, beginning with boot camp.

Gay rights groups, and Mr. May himself, say the changes do not go far enough.

"First we're going to indoctrinate our soldiers to believe that homosexuals are inferior and a threat because of this policy, and then we're going to indoctrinate them into believing gays shouldn't be harassed," Mr. May said. "It doesn't make any sense."

Mr. May said other lawmakers had told him that some of his new political enemies, from the right wing of his own party, had spurred the Army investigation by alerting the service to his public remarks. One Republican, Jeff Groscost, the Speaker of the House, denied that accusation and said Mr. May had only his own candor to blame.

"My question was, How could you expect that not to have made it to the Army?" said Mr. Groscost, who fought several tough legislative battles against Mr. May this spring and has become one of his critics.

The case could well threaten the political career of one of the few openly gay officials in the country elected to state or national positions. There are three openly gay or lesbian members of the United States Congress, and 34 acknowledged gay, lesbian or bisexual officials elected at the state level, according to the Gay and Lesbian Victory Fund, a group that supports homosexual candidates. Of those 34 state officials, the organization says, only one is a Republican, Mr. May.



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To some members of Mr. May's party, the fundamental problem seems to be his sudden outspokenness more than his sexual orientation itself. Although Mr. May says he has been open about his sexuality with his family and friends since he was 18, he did not discuss it in public until he was "outed" by another Republican when he ran for the State Senate in 1996. It is not clear why the Army did not pick up on the issue then.

Mr. May says that the episode worried him at the time but that he chose to address his homosexuality only when others raised it. In his campaign last year, he says, he adopted the same policy, never denying his homosexuality but not raising it himself. That seemed to satisfy some party leaders, at least for a time.

"Steve May is a pretty good guy, to tell you the truth," said Mike Minnaugh, the Republican state chairman, who is a resident of Mr. May's district, in the wealthy eastern section of Phoenix. "As an individual, I do not endorse homosexual relationships -- it goes against my beliefs -- but I do respect his rights. As long as he doesn't go and talk a lot about his homosexuality, he can continue to get elected."

Mr. Minnaugh added, though, that if a heterosexual Republican candidate with equally conservative credentials were to run against Mr. May in the primary next year, "that would be very difficult."

And Speaker Groscost said that "if there's a politically attractive challenger, Steve could have some trouble."

"I'm not sure that he ran before as an openly gay legislator," the Speaker said. "There's a small chink in that armor."

Mr. May says he is concerned that the party may not support his re-election. (He is already working to raise a campaign war chest of \$100,000 on his own, a huge sum for a state race here.) The experience, he says, has shaken his belief in the party machine, though not in the party's traditional values.

"I've always been Republican," Mr. May said. "I believe in the core Republican principles. I also happen to be gay. But the party has been hijacked by theocratic fascists."

The only other openly gay member of the Legislature, Representative Ken Chevront, a Democrat, says that in this conservative state, he was surprised at Mr. May's outspokenness concerning his homosexuality.

"He's young," Mr. Chevront said. "And all of a sudden he heard this stuff being said about gays. He dealt with it differently than I do."

Mr. May says he had no choice.

"The voters want you to be honest," he said. "I'd rather just say, 'It's none of your business.' But you can't get away with that anymore."

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The New York Times, August 26, 1999

GRAPHIC: Photo: Steve May (Jeff Topping for The New York Times)

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LEVEL 3 - 26 OF 92 STORIES

Copyright 1999 Times Mirror Company
Los Angeles Times

August 31, 1999, Tuesday, Home Edition

SECTION: Part A; Page 15; National Desk

LENGTH: 1191 words

HEADLINE: GORE CALLS FOR COMPASSION IN MILITARY'S 'DON'T ASK, DON'T TELL' POLICY ON GAYS;

POLITICS: VICE PRESIDENT SAYS THAT HE DOES NOT BELIEVE THE RULES ARE WORKING PROPERLY. ISSUE REMAINS CONTROVERSIAL AMONG PRESIDENTIAL RIVALS.

BYLINE: PAUL RICHTER and RONALD BROWNSTEIN, TIMES STAFF WRITERS

DATELINE: WASHINGTON

BODY:

Vice President Al Gore, wading into an issue that bedeviled the Clinton administration's first year in office, says he wants a more "compassionate" handling of the "don't ask, don't tell" rules governing **homosexuals** in the **military**.

In an interview in the current issue of the Advocate, a **gay** magazine published in Los Angeles, Gore says he doesn't believe the rules "are working the way they were intended to work." And he says he would "try to change that by working with military leaders to bring about an implementation strategy that's fairer."

Gore's comments, made earlier this summer, continue his efforts to reach out to party interest groups as he seeks the Democratic presidential nomination. And **gay** activists--pointing to recent statistics that have shown the military is expelling more and more **gays** and lesbians--welcomed his remarks. But they added that his statements leave unclear precisely how Gore would alter existing practices.

Some analysts, recalling the firestorm of criticism that greeted the "don't ask, don't tell" policy, said the subject remains so controversial that Gore is taking a risk by bringing it to public attention again. "Even now, it's such a can of worms," said Stuart Rothenberg, a nonpartisan political analyst.

President Clinton--just eight days after his 1992 election victory--declared his commitment to lift the 48-year-old ban on **homosexuals** in the uniformed services. But it took 14 months of intense debate before the "don't ask, don't tell" policy was crafted, and the angry debate over it consumed the administration's early months.



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Los Angeles Times August 31, 1999, Tuesday,

The policy was intended to safeguard the right of **gays** to serve in the **military**. It permits **homosexuals** to serve as long as they don't discuss their sexual orientation; it also prohibits commanders from asking soldiers whether they are **gay**.

Gay activists, however, increasingly are concerned that commanders are not living up to their part of the bargain. For instance, last year 1,145 people were discharged from the military for homosexuality, compared with 997 in 1997 and 617 in 1994.

Among those agreeing with Gore's call for a more compassionate handling of the issue was Stacey Sobel, senior staff attorney for Servicemembers Legal Defense Network, a group that represents service members at risk because of the military's rules. But she said what Gore would do as president remains unclear "because we've seen only limited statements."

David Smith, a spokesman for the Human Rights Campaign, the nation's largest **gay** and lesbian political group, said his organization was pleased by Gore's comments. But he said he didn't "see a great deal of daylight" between Gore's position and that of the Pentagon itself.

On Aug. 13, the Pentagon released new policy guidelines on the "don't ask, don't tell" policy intended to reduce harassment and unfair discharges of **homosexual** troops. The guidelines require that mid-level commanders seek permission from senior civilian officials in the Pentagon before opening certain types of investigations.

At the same time, the Pentagon has asserted that "for the most part, the policy has been properly applied."

Chris Lehane, Gore's press secretary, said Monday that the new guidelines were in keeping with the vice president's desire for more "compassion" in handling the issue.

"He would like to work with the military to address concerns he has about implementation of the policy," Lehane said.

With former New Jersey Sen. Bill Bradley--Gore's sole challenger for the Democratic presidential nomination--criticizing him from the left, Gore has been trying to nail down liberal support, even while holding to many of the centrist themes that Clinton has emphasized.

That has led to a balancing act. On the one hand, Gore has stressed several positions unpopular on the left--such as promising to keep the federal budget in balance and to maintain work requirements on welfare recipients. On the other, he has moved beyond Clinton to identify with several priorities of key party constituencies.

For instance, Gore has promised to increase the emphasis on labor and environmental protections in future trade negotiations, and to take steps to improve the ability of unions to organize new members--both top priorities for organized labor.



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Los Angeles Times August 31, 1999, Tuesday,

Bradley's campaign on Monday signaled that on the issue of **gays** in the **military**, he would stake out a position aggressively to Gore's left. Bradley's chief spokesman, Eric Hauser, said the former senator "has grave doubts about whether the policy can work," and believes "we ought to be able to get to a time when **gays** can serve openly in the military."

In 1993, Bradley opposed the "don't ask, don't tell" compromise as unworkable, and voted in the Senate to kill it.

The issue has yet to be widely debated among the Republican presidential contenders.

Texas Gov. George W. Bush, the front-runner for the GOP nomination, has said he wants to stick with the current policy, just as former Joint Chiefs Chairman Gen. Colin L. Powell crafted it.

His more moderate foes, such as Elizabeth Hanford Dole and Sen. John McCain (R-Ariz.), are not expected to focus on the matter. But Bush is likely to be challenged on the issue by several of his more conservative opponents--Patrick J. Buchanan, Gary Bauer and Alan Keyes all oppose allowing **gays** to serve in the **military**.

Meanwhile, on another controversial social issue, Gore's office has been moving to clarify his position on teaching evolution.

The dispute began Thursday when Gore's staff members were asked for a reaction to the recent decision by the Kansas state school board to drop virtually all mention of evolution from its statewide science curriculum and standardized tests. Gore is on vacation, but his press office--based on earlier discussions with him--responded that he personally supported the teaching of evolution, but also felt that "localities should be free to decide to teach creationism as well."

Almost immediately, his office clarified that Gore would support the teaching of creationism only in a religious-studies class, not as science--an option the Supreme Court, in any instance, has already barred as an endorsement of religion.

But that statement still angered some scientists, as well as prominent Democratic activists and fund-raisers, who noted that it contained no direct criticism of Kansas' decision to drop evolution from its curriculum.

"It was amazing that in 1999 a Democratic presidential candidate would be afraid to criticize a school board that took evolution out of the curriculum," said a Democratic fund-raiser who called Gore's campaign to complain about the remarks. "If this was a mistake, it was frustrating. If this was strategy, it was infuriating."

Amid such criticism and confusion, Gore's office further explained his position. On Sunday, Laura Quinn, Gore's communications director, said the vice president flatly opposed the Kansas board's decision.

"The vice president strongly believes creationism should not be taught as science and he believes what the Kansas school board did was a mistake," she

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said.

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LEVEL 3 - 1 OF 92 STORIES

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OCTOBER 11, 1999

SECTION: Pg. 52

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HEADLINE: Ask, Tell

BYLINE: Richard A. Posner

BODY:

Gaylaw:

Challenging the Apartheid of the Closet

by William N. Eskridge Jr.

(Harvard University Press, 462 pp., \$45)

Richard A. Posner is Chief Judge of the U.S. Court of Appeals for the Seventh Circuit and the author of *Sex and Reason* (Harvard University Press).

William n. eskridge, Jr. has written an impressive treatise on the regulation of homosexuality by American law. It is formidably learned, both in law and in the external disciplines (such as history, psychology, and sociology) that study homosexuality; and it is powerfully written and brilliantly argued.

Eskridge calls his subject "gaylaw." He means by this to encompass, besides the legal regulation of **homosexual** orientation and practices, the law's treatment of transsexuals and transvestites, thus extending the word "gay" to cover additional "gender nonconformists" (most of whom are not **homosexual**). But he has little to say about these rather small groups; the real significance of Eskridge's term is to suggest that reflection on the legal regulation of homosexuality has implications for other types of regulation, notably the regulation of heterosexual practices and institutions, including marriage. "Gay experiences have been systematically different from straight experiences," he observes, "and these differences can contribute to debates about the regulation of sex."

Still, Eskridge's analysis centers on the law's treatment of **homosexuals**, the broader implications being confined to portions of the third and last part of the book. The first part is a history of the law's treatment of **homosexuals** between 1880 and 1981, by which time, Eskridge argues, the issue of **gay** rights was being taken seriously for the first time. The second part is a sustained criticism of the principal areas in which the law has failed to recognize **gay** rights to the full extent that Eskridge believes justified. The third part, which is presented under the unfortunate rubric of "queer theory," deals boldly with such taboo issues as consensual sadomasochism, sex with and between children and the insane, **homosexual** marriage and adoption, and polygamy. The



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third part of Eskridge's book is a social or religious conservative's nightmare.

Eskridge is himself **homosexual** and he writes as a partisan, but in measured tones, without indignation, and with due regard for the arguments of his opponents. He is willing to face uncomfortable facts, as when he remarks about aids that "if **gay** sex sidesteps the creation of life, it now waltzes in the shadow of death." His insider status is a strength, because sexual experience, like religious experience, is exceedingly private, and therefore difficult to write intelligently about from the outside. It is no accident that the leading scholar of the religion clauses of the Constitution, Michael McConnell, is one of the relatively few constitutional law professors who is a seriously believing Christian.

The first part of Eskridge's book is the most riveting. A tour de force of narration, it holds the reader's attention for 137 dense pages of legal history. One learns, among other curious things, that sexual-psychopath law was applied to "the passing of bad checks by a suspected **homosexual**," and that California's Atascadero State Hospital was known as "Dachau for Queers," and that in the 1960s the New York Times referred to **homosexuals** in Times Square as "promenading perverts."

Many readers will be surprised to learn that official oppression of **homosexuals** increased throughout much of the century covered by Eskridge's historical narrative. This was in part because increased urbanization made **homosexuals** more visible (they could achieve critical mass for the first time), and in part because a growing belief in the importance to society of normality, a burgeoning population, mental and physical health, and companionate marriage tended to make **homosexuals** increasingly suspect. The McCarthy period featured a witchhunt for **homosexuals**: more State Department employees were fired during the 1950s as suspected **homosexuals** than as suspected Communists. War fever breeds paranoia, and a culture that celebrates companionate marriage as ardently as ours did in the 1950s is likely to consider homosexuality deeply, and menacingly, transgressive.

Another revelation is that the constitutional adventurism of the Supreme Court under Earl Warren's chiefship, an era in which the Court seemed to go out of its way to deny the existence of **homosexual** rights, produced substantial legal gains for **homosexuals**. The reason--this Eskridge does not stress--is that the types of legal regulation that the liberal decisions of the Warren Court made more difficult were precisely the methods by which law enforcers silenced, harassed, and intimidated **homosexuals**. Those methods included the enforcement of vagrancy laws, the prohibition of pornography, movie censorship, the discharge of tenured public employees, the enforcement of vague criminal statutes, the suppression of organizations that advocated "immoral" practices, and police brutality against and surveillance of members of disfavored groups.

What those methods had in common was the awarding of law enforcers with broad discretion to focus their efforts on marginal and unpopular groups--by firing employees without having to show a work-related reason, or rounding up loitering "perverts" or stationing police "toilet spies" in public restrooms to catch **homosexuals** in acts of public indecency. But such practices were restricted or constrained by the Warren Court; and so **homosexuals** were the unintended beneficiaries of legal innovations made by judges who for the most part had rather little sympathy for them.



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This is a point over which I would have expected Eskridge to pause. For it raises the question of whether **homosexual** rights is what gaylaw should be pushing for, especially since, as he acknowledges, the pressure for those rights has engendered a counterpressure for a heterosexual right of protection from **homosexuals**--specifically, for protection from **homosexual** "recruitment" and the **homosexual** "gaze." Just as *Roe v. Wade* gave birth to the right to life movement, one claim of rights inciting an offsetting claim of rights. As the legal scholar Martha Ertman has argued, the judiciary is much more willing to enforce general rights on behalf of a disfavored minority than it is to create rights specially for them, and legislatures are distinctly unwilling to legislate in favor of **homosexuals**. The principle that legal disputes are to be decided without regard for whether the judge finds one litigant or the other repulsive or sympathetic is fundamental to the judicial "game," and it means that whatever rights of contract or due process or property or privacy the law recognizes for the community in general will be available in a practical sense, and not merely in a theoretical sense, to unpopular members of the community.

Thus judges who would be appalled at the thought of **homosexual** marriage are nevertheless quite likely to enforce "palimony" contracts between **homosexuals**, contracts that might provide a reasonable simulacrum of marriage. Of course it can be argued that to recognize **homosexual** marriage is not to confer a right on **homosexuals**, but merely to make the legal status of marriage available regardless of the gender relation of the parties. But the argument overlooks the fact that gender difference is considered by most people fundamental to the marriage status, whereas sexual orientation is not thought fundamental to rights of contract or property or procedure.

The main thrust of the second part of Eskridge's volume is to argue against the remaining categorial discriminations against **homosexuals**, in particular the criminalizing of **homosexual** sodomy (usually defined to include oral sex as well as anal sex) and the exclusion from the Armed Forces of persons who acknowledge being **homosexual** (the "don't tell" part of the Clinton administration's "don't ask, don't tell" rule). As a matter of pure policy, divorced from considerations of judicial precedent or public opinion, the first of these discriminatory laws is absurd and the second is unsound. Oral sex among heterosexuals, as we learned during the Clinton impeachment ordeal, is extraordinarily common, and anal sex is hardly unknown among heterosexuals, and this despite the alternative of vaginal intercourse, which is attractive to most heterosexuals but unappealing to **homosexuals** (unless the use of dildoes, popular with some lesbians, can be so classified). To forbid these practices to **homosexuals**, and thereby greatly curtail their sexual pleasure, is to inflict a gratuitous cruelty. Anyway, the prohibitions are vestigial; they are still on the statute books in a (diminishing) number of states, but they are almost never enforced. They are an embarrassing survival of an almost forgotten era of sexual prudery. And they are not entirely harmless, despite their deserved desuetude; they are sometimes invoked to deny **homosexuals** the right to adopt children. I shall argue shortly that such denial is wrong.

As for the issue of **gays** and lesbians in the **Armed Forces**, the United States is one of the diminishing minority of nations that worries about having uncloseted **homosexuals** among its soldiers. The experience of the nations that have dropped (or never instituted) such an exclusion suggests that the worry



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probably is unfounded. There is no basis for thinking that **homosexuals** are combat-incapable sissies; and experience with the sexual integration of our Armed Forces teaches that the problems of intrigue, harassment, and favoritism that arise when a workplace contains persons who have a sexual interest in one another are controllable. It is true that there is less privacy in an army than in the ordinary workplace, leading to concerns that heterosexual males will be demoralized by being subjected to the "homosexual gaze" while taking a shower; but the man who is seriously discomposed by a lascivious glance is the real sissy.

For a lawyer, the interesting question is not whether these policies are dumb, but whether the Supreme Court should hold them unconstitutional. I have my doubts, particularly about the military exclusion. Neither Eskridge, nor I, nor, as far as I know, anyone who writes about these issues, has any military experience, and this should make us all hesitate before prescribing personnel policies for the military. It is true that civilian officials forced the racial integration of the Armed Forces over the opposition of the generals in 1948 and that integration did not undermine military performance, but the officials who did this were, most of them, men with considerable military experience, from Truman on down, and there are ever fewer of these among the nation's high officials, including Supreme Court justices and other judges.

We must be cautious also about basing policy on the practices of other nations. If the American people are more hostile to **homosexuals** than the people of nations which do not attempt to exclude **homosexuals** from military service, and if, today, with the military a relatively unpopular career, our Armed Forces are recruiting disproportionately from the segment of the population that is hostile to **homosexuals**, abandonment of the exclusion might create serious problems of morale. Or it might not; I really have no idea. One possibility is piecemeal reform. The first step might be to change "don't tell" to "don't flaunt," so that private or otherwise discreet revelation of **homosexual** orientation would not be grounds for discharge.

It certainly does not help, so far as seeking to invalidate on constitutional grounds either of the discriminations that I have been discussing, that the Constitution does not speak clearly to sexual issues. The lack of a firm textual basis for invalidation would undermine the perceived legitimacy of the Supreme Court's action, should it strike down prohibitions of **homosexual** conduct or orientation that have strong public support. I find wholly unconvincing Eskridge's argument that "sodomy laws are classic censorship" because oral and anal sex are modes of self-expression. This argument would make rape presumptively protected by the First Amendment, and it illustrates why laypeople are often correct in finding legal arguments absurd. (This particular argument is little better than a pun on the word "expression.") Eskridge is right that if **homosexuals** did not engage in **homosexual** activity, they would be unlikely to participate effectively in public debates over whether such activity should be permitted. But the same thing is true of price fixers. Since price fixing is criminalized, businessmen who believe that it should be decriminalized lack an experiential base from which to argue their point of view. How very sad. The whole of criminal law would unravel if Eskridge's argument were accepted.

Eskridge is on stronger ground, but not yet on strong ground, in arguing from cases dealing with the rights of other disfavored groups. He points out that



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more than twenty years ago the Supreme Court invalidated a statute that forbade the employment of members of the Communist Party U.S.A. in defense plants, which shows that considerations of national security do not always trump claims of constitutional right. But the weakness of arguing from cases-- unless one is arguing in court, where cases have authority independent of their intrinsic merits--is that invariably the arguer takes for granted that the case from which he is arguing was correctly decided. Eskridge is quick to criticize cases with which he disagrees, but he makes no effort to defend those with which he agrees.

Eskridge's use of case authority is a familiar tactic in academic legal argument, but it should be resisted. It is a "heads I win, tails you lose" kind of argument. If a judicial decision favors the arguer's position, the decision is treated as having intrinsic authority, quite apart from the soundness of its reasoning. If it comes out against the arguer's position, it is treated as weightless if its reasoning is vulnerable. Responsible scholarly argument should rely only on cases that the arguer thinks correctly decided. I am not sure that Eskridge could make a convincing argument for the soundness of that 1967 case. Since the Communist Party U.S.A. was controlled by the Soviet Union, with whom we were in a state of cold but real war, it is possible to believe that the Supreme Court was trifling with our national security in forbidding the banning of the members of the party from our munitions factories.

The final part of Eskridge's book is the most audacious. By taking on such issues as whether consensual sadomasochism should be permitted and discussing them under the rubric of "queer theory," Eskridge risks losing most of his straight audience outside the leftish precincts of the academy. "Queer theory" is a very "in your face" dispensation; it flaunts homosexuality rather than seeking to normalize it.

Granted, its bark is worse than its bite, since all it really wants to argue is that the conventional categories in which we discuss sexual phenomena--categories that include consent, coercion, and gender--are to some extent socially constructed rather than naturally given, and thus should be open to criticism and revision. Queer theory is thus continuous with radical feminism, and both have at least a core of common sense. Both teach that, for example, if a lesbian marries a man because of social pressure to conform to the norm of heterosexuality, then the sexual intercourse that ensues between the married couple is not unproblematically "consensual" on the part of the wife.

And conversely, if two people want to have a relationship in which one inflicts physical pain on the other--Eskridge illustrates with the practices of a homosexual S/M ring that included "nailing a man's penis to a bench" and "sandpapering a man's testicles"--then the infliction of that pain need not be thought coercive, even though the external manifestations of the pain-inflicting act are identical to those of a violent rape. But cutting back the other way, the "consent" of the "victim" may not be authentic if he or she is a masochist by virtue of some psychic injury or social brainwashing. Eskridge remarks that "by teaching thugs that they could have their way with fairies without accountability, the law encouraged their sadism; by teaching fairies that they were subhuman, the law inculcated in some of them a victim mentality of masochism." But he worries that such arguments reflect a "sex negativity" that reinforces the traditional stereotyping of homosexuals as promiscuous.



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Some "queer theorists" advocate **homosexual** marriage because, by divorcing marriage from procreation, it undermines heterosexual marriage; others oppose **homosexual** marriage because they think it is part of a design to force **homosexuals** into an imitation of heterosexuality. Radical feminists might support **homosexual** marriage because in a marriage between two women, one of them, at least, must be a breadwinner, thus challenging the stereotypical heterosexual marriage in which the husband is the breadwinner and the wife stays at home with the kids. But radical feminists equally might oppose **homosexual** marriage as designed to shore up the institution of marriage by insisting that all sexual activity be channeled into it.

It is unclear where all this leads; probably nowhere. It would be pretty fantastic to argue that the lesbian who marries a man to hide, and who therefore does not consent to sex with him in a fully meaningful sense of "consent," should be thought a victim of rape; and, if not, it is unclear what is gained by casting into doubt the concept of consent. Eskridge might have been well advised to leave queer theory in the closet, as it were. The points that he makes about the specific issues seem to me on the whole pretty sensible, even the shocking ones, and they owe nothing to that body of thinking.

Eskridge argues that there is really nothing to differentiate consensual sadomasochism from a boxing match, in which consent is a defense to what would otherwise be assault and battery; and that people with mental disabilities are usually not completely irrational and generally have the same sexual desires and need for intimacy as the fully sane; and that most American teenagers are sexually sophisticated; and that there is no evidence that children adopted by **homosexuals** are more likely than any other children to grow up to be **homosexuals**; and that it would be a good idea for one or two states to legalize **homosexual** marriage so that we can see whether the sky would fall, as social conservatives predict. These arguments are, as I say, pretty sensible.

But they are not unassailable. The analogy between boxing and S/M, for example, is just that--an analogy. Boxing is a contest of skills, and partly for that reason it is an entertainment for other people, whereas pain seems to be the whole meaning of sadomasochism. But of course Eskridge is not arguing for sadomasochism (or for boxing), but rather for a Millian liberalism in the domain of sex. He holds that neither the state, nor even public opinion, has any business interfering with conduct that does not harm non-consenting third persons. I agree with this.

Applied to **homosexual** behavior, such a view focuses attention where it belongs, on the question of whether more tolerant laws and attitudes would increase the number of people who have a **homosexual** orientation. Although Eskridge may believe (he doesn't quite say so) that if every vestige of discrimination were eliminated, **homosexuals** would be as happy as heterosexuals, I am doubtful. I think that being **homosexual**, like being short or obese, is likely to continue to be disadvantageous for one's chances in life for as far into the future as we can see. The reason is that homosexuality complicates family formation.

A **homosexual** couple cannot have a genetic relationship to their child, though one of them can. Technology will someday overcome this, and then the issue will be whether the complementarity of the male sex drive and the female sex drive is a source of enhanced stability and contentment in a heterosexual relationship.



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Until then, however, I think that parents are reasonable not to want their children to be **homosexual**; and reasonable or not, most of them have, as an empirical matter, a strong preference for heterosexual children, and their preference in a matter so important to people deserves respect. It would be un-Millian to withhold it from them.

Still, I agree with the conclusion of Eskridge's too-brief discussion of the evidence concerning the causes of **homosexual** orientation that recruitment, seduction, propaganda, and the social acceptance of **homosexuals** are not causes of such an orientation. I believe that it is innate. There are, I realize, some political lesbians and, in our colleges, some "LUGs" (lesbians until graduation), and male teenagers, too, sometimes go through a bisexual stage. But one's long-term sexual orientation, so far as we now know, is determined rather than acquired. It is hard to believe otherwise when one considers the extraordinary fact that throughout most of recorded history it has been a great disadvantage to be a **homosexual**, and yet there have been a great number of **homosexuals** in every known society.

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HEADLINE: MILITARY COUP

BYLINE: Nathaniel Frank

HIGHLIGHT:

Who decides if **gays** should serve?

BODY:

This fall the Clinton administration's "don't ask, don't tell" policy on **gays** in the **military** received a seal of approval from the U.S. Court of Appeals for the Second Circuit--the fourth appellate court to uphold the policy since it was first announced. In this particular case, a lower court had struck down the policy for violating both the free speech and equal protection clauses of the Constitution, by requiring that only **gay**--and not straight--soldiers keep their sexual orientation secret and remain celibate both on and off base. But the three-judge appeals panel reversed the lower court's decision, suggesting that the only place military policy can be written is the Pentagon. "Courts are ill-suited to second-guess military judgments that bear upon military capability or readiness," wrote the panel. The plaintiffs are now considering whether to appeal to the Supreme Court, but the Court has already refused to consider challenges to the policy in four other cases.

Thus, the courts seem poised to become the third and final branch of government to have shirked responsibility over the issue of **gays** in the **military**. By handing over decision-making power to a small minority of military men and their supporters, the courts have failed to exercise their constitutional duty to ensure that providing for the common defense does not trump the laws, rights, and ideals being defended. This is troubling both because the policy that has emerged is deeply flawed and, most significantly, because it is a cardinal principle of democracy that civilian authorities should control the unelected military.

Back in the heady days of Clinton's first campaign for the presidency, that principle seemed secure. At the time, Pentagon regulations banned all **homosexuals** from serving in the **military**, but candidate Clinton promised that he would issue a presidential directive lifting the ban. Almost immediately upon taking office, he directed his then-defense secretary, the late Les Aspin, to begin reviewing the issue. But Clinton's move aroused an uproar of opposition--not just from the ranks of the military but from members of Congress sympathetic to their views. Congress, led by members such as Senator Sam Nunn, threatened to preempt Clinton by making the ban on **gays** in the armed services part of the U.S. code--as opposed to just a Defense Department regulation. But rather than holding his ground and vowing to fight potential opposition from



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Congress--as President Harry Truman did when he issued his presidential directive integrating the military in 1948--Clinton agreed to a compromise. Having entered office with a murky draft record and a shaky relationship with the military, Clinton was wary of taking on the men in uniform. And so he agreed

with Nunn that Congress would hold hearings on the matter and that his administration would abide by whatever emerged.

Unfortunately, during the nine days of Senate hearings that ensued, Congress showed that it too was unwilling to exercise genuine leadership in the face of the military's obstinacy. Senators fixated on the testimony of those opposed to lifting the ban, witnesses who spoke repeatedly about "discipline," "morale," "cohesion," and "national security." Phrases like "the military is unique" and "the military is not a democracy" were heard over and over again, as was the reminder that the Constitution does not guarantee a right to serve in the Armed Forces. After the hearings, Congress passed a statute requiring the Defense Department to discharge openly gay soldiers. In a finding accompanying the statute, Congress explained that "the presence in the armed forces of persons who demonstrate a propensity or intent to engage in homosexual acts would create an unacceptable risk to the high standards of morale, good order and discipline, and unit cohesion that are the essence of military capability." Based on the statute, the Defense Department approved the "don't ask, don't tell" policy.

Yet no one has actually been able to link gays serving openly in the military with impaired readiness or combat effectiveness. In fact, a major study commissioned by the military concluded that gays could serve openly as long as the policy received firm support from senior military leaders. The study, which cost taxpayers \$1.3 million, was conducted in 1993 by the influential Rand Corporation, a research group with established ties to the military. According to The New York Times, Pentagon officials have since acknowledged that they never took the Rand report seriously because the Joint Chiefs of Staff were uncomfortable with its implications.

The military is aware, of course, that raw homophobia is not a tenable rationale for denying gays their civil rights. And so its leaders have fallen back on an argument that caters to the prejudices of heterosexual soldiers: namely, that avowed homosexuals make straight soldiers uncomfortable, threatening unit cohesion and military readiness. But the military's argument buckles under the weight of its inconsistencies.

Consider the case of women. By the government's own logic, lesbians are punished for no reason at all. Research has shown that women are much less concerned about living and working with gays than their male counterparts are. Nevertheless, women, who made up only 14 percent of the Armed Forces in 1997, accounted for 22 percent of discharges for sexual orientation; in 1996, women made up 13 percent of service members and 29 percent of sexual-orientation discharges.

Instead of confronting military leaders with the flaws of their argument, Congress chose to cater blindly to their fears. The result has been a policy that has been at least as bad for gays as the original ban. Furthermore, discharges have ballooned since the policy first took effect: the military booted 997 gay troops in 1997, a 67 percent increase over the 597 discharged in 1994. Command violations--asking or pursuing by military officials--have



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increased steadily as well. The Service-members Legal Defense Network, an independent watchdog group that documents violations in the field, reports that command violations have swelled every year since the policy took effect, reaching 563 in 1997.

In short, in place of exercising their democratic duty, the courts, Congress, and the White House have given the men of the military carte blanche to impose their own brand of justice on the citizens they serve. Is this a brand of justice worth fighting for?

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HEADLINE: The military and modern society : Civilian-Military Relations in
Post-Cold War America.

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BODY:

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Polls continue to show that the military is among the most admired institutions in America. Despite the theoretical popularity of the military, however, differences in experiences and culture ensure that civilian-military relations in the United States will remain troubled.

The use of military force in the former Yugoslavia in 1999 and the attendant discrepancy between desired ends and the means made available at the outset for their achievement aggravated an already difficult relationship between the military and an administration long on rhetoric and short on strategic judgment. At the same time, there was concern in military circles that public support for the bombing campaign against civilian targets in Serbia would wane. Whether such support would have continued cannot be known, because Serbian leader Slobodan Milosevic acceded to NATO demands--to the surprise of many, including this author. Whether this was due to the air campaign, the increasing prospect of ground action, skillful U.S. and NATO diplomacy, or some combination of these and other factors is also not known at this time. In any event, the attack phase of the war ended before serious erosion of public confidence in the efficacy of military intervention occurred. Time will tell whether the long-term occupation of Kosovo by NATO and Russian forces will be successful and what effect that will have on public support.

Since the media both shape and react to popular conceptions of reality, popular films often serve as a useful barometer of public opinion. This is particularly true for their portrayal of the military, a subject on which everyone seems to have a strong opinion. The post-Vietnam fall, rise, and perhaps a coming fall in popular esteem for the military profession (and, by



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extension, military people) is well chronicled in such films as *Apocalypse Now*, *Full Metal Jacket*, *Born on the Fourth of July* (fall); *Officer and a Gentleman*, *Top Gun* (rise); and *The Siege* (fall). The last film, in which the military rounds up Arab residents of Brooklyn in response to a series of terrorist bombings, is particularly instructive for its fear that the armed forces would slip the traces of civilian control in an emergency.¹

In a similar vein, Air Force Col. Charles Dunlap Jr. used a hypothetical military coup of 2012 as the backdrop for writing of his concern about the direction of civilian-military relations. The coup was sparked by "the massive diversion of military forces to civilian uses, the monolithic unification of the armed forces, and the insularity of the military community."² Appearing as it did in the journal of the U.S. Army War College, it caused quite a stir.

Media-driven hyperbole and attention-getting literary devices notwithstanding, how can society ensure that military authorities remain in their proper sphere? Is the gap between civilian and military society so serious as to pose problems for civilian-military relations and civilian control?

TWO THEORIES

Two classics of civilian-military relations still frame discussions of how the military is controlled in a democratic society: Samuel Huntington's *The Soldier and the State* and Morris Janowitz's *Professional Soldier*.³

For Huntington, civilian control is achieved through military professionalism. He argues that military officership exhibits the three characteristics that define a profession: expertise (the management of violence), responsibility (for the defense of the state), and corporateness (institutional self-awareness and organization).⁴ These properties distinguish the military from other professions, and their emphasis serves as the best basis for civilian control. The self-regulating norms of military professionalism preclude disobedience to civil authority.

In Huntington's view, the nature of the military makes it a poor match with a liberal civilian society. Indeed, he suggested that "the tension between the demands of military security and the values of American liberalism can, in the long run, be relieved only by the weakening of the security threat or the weakening of liberalism."⁵ As a result, too close association between the military and society weakens, rather than strengthens, civilian control. The diminished security threat (at least for the moment) brought by the end of the Cold War has eased this dilemma but has not eliminated it.

For Janowitz, the founder of the field of military sociology,⁶ civilian control is achieved through the socialization process. The military reflects the society it serves in important ways, and the military's sympathy with the values of society makes it a more willing servant. Although military members cannot enjoy all of society's privileges, they do support a system that makes these privileges available to the civilian population. Even so, a distinct military culture is important. "In a private enterprise society," says Janowitz, "the military establishment could not hold its most creative talents without the binding force of service traditions, professional identifications, and honor."⁷ In this connection, the degree to which society at large should impose its values (and its culture) on its military is an unresolved question.



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THE GAP

Wall Street Journal military correspondent Thomas Ricks has noted a dening gap between the military and society. Based on personal observation of a platoon of Marines during and after basic training, Ricks saw a contradiction between the values inculcated in the military and those increasingly prevalent in civilian society, leading to feelings of estrangement by some in the military. He suggested three reasons for this, including the end of the draft, the "politicization of the officer corps," and a more fragmented, less disciplined American society.⁸

Political scientist Ole Holsti confirmed and extended Ricks' analysis. Among other findings, Holsti's extensive survey results over recent years documented what he called "a strong trend toward conservative Republicanism among military officers."⁹ This is noteworthy in view of the previously apolitical nature of the military calling; indeed, many officers would even refuse on principle to vote.

The degree and significance of this gap are open to debate. It may be simply a curious artifact of different socialization processes, but it could also mark a fundamental "fault line" that has implications for the nature of military service, military effectiveness, and the ability of civilian society to control the military that defends it. The latter issue is of particular concern here.

There is a danger if society and the military that protects it become too dissociated from each other. Already, many in the military feel estranged from civilians, whom they see as undisciplined, irresolute, and morally adrift. They view themselves as the true carriers of American values and traditions, swimming against the tide of a society gone soft. There are also undercurrents of contempt for particular civilian leaders, although public demonstrations of disrespect remain rare. If such a display is too overt, an officer's career is properly ended.

An early visit by President Clinton to an aircraft carrier was marred by discourtesy on the part of many crew members. Contemptuous public comments about the commander in chief by an Air Force general resulted in the rapid termination of the officer's service. An op-ed piece in the Washington Times by a major in the Marine Corps Reserve (and identifying the author as such) calling for the president's impeachment effectively ended the major's career. Although many members felt it read well, most felt it went over the line of acceptable commentary by a serving military officer--even a reservist. Wiser commanders pointedly reminded their officers of the provisions of Article 88 of the Uniform Code of Military Justice (UCMJ):

"CONTEMPT TOWARD OFFICIALS: Any commissioned officer who uses contemptuous words against the President, the Vice President, Congress, the Secretary of Defense, the Secretary of a military department, the Secretary of Transportation, or the Governor or legislature of any State, Territory, Commonwealth, or possession in which he is on duty or present shall be punished as a court-martial may direct."

For their part, Americans may love their military, but it is in the same way they might love their Rottweiler: They are happy enough for the protection but



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do not want to become one themselves. For many, military life is as unfathomable as life on another planet, and military people are outsiders. This does not make them expendable--they are, after all, still Americans, and the sight of abused prisoners of war still strikes a strong nerve--but it does not mean they are part of the mainstream. Military protection is accepted, and even expected, but there is little understanding of the individuals who have chosen the military as a career.

A difficulty in understanding does not equate to dislike, however. There is a sense of respect for the sacrifices military people make that civilians do not have to, and perhaps could not, make.¹⁰ While there is public disagreement over whether we should be in Kosovo, there is no resulting criticism of the servicemen and women who are serving in the vicinity. This is a great improvement over the Vietnam War, when the soldiers fighting it at great personal sacrifice shared in its unpopularity.

CENTRIFUGAL FORCES

There are many centrifugal factors driving civilian and military culture away from one another. Perhaps the most serious of these is the diminishing number of civilians--particularly elites--with personal exposure to the military, either through their own service or that of a close family member. The draft ended in 1973, leaving only the requirement to register with the Selective Service System, and even this minimal obligation is for males only. Compulsory national service plans (usually including a civilian service option) are occasionally discussed, but there is neither widespread political support nor the military necessity for them now. Northwestern University sociology professor Charles Moskos proposed an innovative plan for fifteen-month enlistments to attract college students into the military, but this, too, is likely to founder. As he noted, however, "If serving one's country became more common among privileged youth, future leaders in civilian society would have had a formative citizenship experience. This can only be to the advantage of the armed forces and the nation."¹¹

The strenuous efforts of the current president to avoid service in Vietnam hardly escaped notice by the military, but the issue is far broader than that. Not only the president and his major advisers but Defense Department appointees, congressmen, senators, and (very importantly) their staffs are less likely than their predecessors to have had military experience. Media and economic elites, not to mention the general public, are also unlikely to have a personal military connection.

This need not be fatal for military-related policy; many civilians without such experience (such as former Defense Secretary Richard Cheney and the above-mentioned Thomas Ricks) display an intuitive understanding of military matters. Yet, for most, it is more difficult (if not impossible) to evaluate military-related issues, especially those concerning the internal dynamics of the military itself.

This personal dissociation from the military weakens the ability of civilian society to make informed judgments about military issues, let alone influence military decision making. It is not that uninformed civilians will necessarily distrust or dislike the military; equally dangerous would be a tendency to like the military too much and to put unwarranted confidence in military solutions to



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international political problems.

In addition, military people perceive a double standard between themselves and civilian officials in the wake of recent scandals. It is disheartening for military personnel at all levels to see the careers of contemporaries sidetracked or ended for infractions far less severe than those admitted to by their commander in chief. No one is suggesting that the president of the United States should fall under the jurisdiction of the Uniform Code of Military Justice, but the draconian personnel policies of Defense Department appointees and congressional staff members (particularly in the wake of the Tailhook scandal) are not conducive to high morale among those in uniform.

If military professionals seemed more restrained than civilians in their private reactions to the scandals that led to the president's impeachment, it was because they had already taken the measure of his character and found it wanting.

SOCIAL ISSUES IN THE MILITARY

Because it is subservient to civilian direction, the military often finds itself "walking point" ahead of society on issues of social change. Some of these have worked out better in the military than in society at large, such as the generally successful attempts to achieve racial fairness.¹² Perhaps the greatest sociological challenge for the military is the integration of women into the mainstream of military activities, including combat. This is proving to be a very difficult issue, particularly as pressure grows to permit women in ground combat, with its attendant questions about the military effectiveness of mixed units.¹³ (Of course, true equality would not mean simply that women could volunteer for combat, but that they could be compelled to serve in combat on the same basis as men.)

Still ahead is the inevitable integration of openly **homosexual** men and women into the **military**, although Moskos' "Don't ask, don't tell" policy has so far withstood judicial scrutiny much better than this author had predicted.¹⁴ The issue is not whether there will be **homosexual** service members--many are on duty now and serving successfully--but how well the military cohesion so crucial in battle can withstand the stress of openly discussed **homosexual** orientations and celebrations of Gay Pride Week. This will be especially problematic to the extent that Holsti, Ricks, and others are correct about the increasing conservatism of service members. If the issue were simply one of civil liberties on the one hand or military effectiveness on the other, personnel policy decisions would be easy. In the real world, where most of us dwell, the choices are not as stark.

CIVILIAN-MILITARY CONNECTIONS

Janowitz's view that it is wise to increase the connections between the military and civil society so as to increase mutual understanding, which the author accepts, has serious implications for military accessions and education. One issue is the source of military officers. An increasing percentage of officers come from the service academies and, in the case of Reserve Officer Training Corps (ROTC) programs, from less prestigious schools. Meanwhile, Officer Candidate Schools (OCS), the least expensive option because the services do not fund candidates' college degrees, have been cut back.



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The military needs a variety of sources for its officers, some of which are under its control. The wrongheaded but successful efforts at several elite universities to remove ROTC programs from their campuses in the wake of the Vietnam War and disputes about **homosexuals** in the **military** are sufficient testimony to this. Ironically, by so doing, those most interested in making the military responsive to society made it less likely that the children of civilian elites who go to such universities would enter the military and perhaps continue to influence it through successful careers.

As officers advance in their careers, a combination of training and education prepares them to assume higher levels of responsibility. This education needs to reinforce the lessons of proper civilian-military relations, which it generally seems to do. Particularly in the war colleges,¹⁵ academic standards are comparable to those of civilian universities. Still, there is a strong argument for sending a large number of the best officers to the top civilian universities. The education may indeed be better, and military and civilian elites can interact and grow to understand and appreciate the other's perspectives.¹⁶

Another civilian-military connection is not as well understood as it should be: the military reserve forces. These "part-timers" provide an invaluable link between the active forces and society at large, and they will be increasingly important as budgets grow tighter and civilian technical and managerial expertise becomes relatively more important for the military.¹⁷

THE MILITARY AND THE MEDIA

Agap between the military and society benefits neither, and it is incumbent on both the military and civilians to close it. As previously noted, the military needs to ensure it is training its people to understand and respect civilian values, institutions, and prerogatives. This includes inculcating a healthy respect for the role of the media and even academic research bearing on military actions and the military as an institution.

In this connection, all is not well. It is too easy for the military to view criticism by "outsiders" as uninformed and mean-spirited, and to see the representatives of a free press as the enemy. Sometimes even military educators are so sensitive to media criticism that they inadvertently teach students in their charge that such criticism is illegitimate. This is a bad lesson to teach future military leaders who will eventually be charged with defending a society in which a free press is of paramount importance.

¹⁸ Similarly, only the Army and Coast Guard are cooperating fully with a major civilian study of military culture now under way, with the Marine Corps particularly adamant against allowing its members to be surveyed.¹⁹

Of course, the military does have its points of view, and these are not usually monolithic. Moreover, the degree to which the military should express policy preferences publicly is highly controversial. Sam Sarkesian argues forcefully that senior officers should voice their opinions in areas of their expertise. He calls for "constructive political engagement," which must steer clear of partisanship as it discusses such issues as military "democratization" (the imposition of civilian values and practices on the military institution)



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and the utility of military force in various contingencies.

20 Conversely, Huntington showed great reservations about the degree to which the military can "participate in the 'good' politics of policy without also becoming embroiled in the 'bad' politics of partisanship."

21 In retrospect, the history of U.S. intervention in Vietnam (or, for that matter, the Balkans) might have been far different, had military leaders spoken out publicly.

22. Although some combination of factors caused Serbian leader Milosevic to move his forces from Kosovo in June 1999, the mishandling of the early stages of the crisis helped to turn a humanitarian tragedy into a catastrophe. This shows the difficulty of waging war by policymakers who do not well understand the application of various forms of military power. As military scholar Eliot Cohen said of an earlier but similar situation, by some "ornithological miracle," the doves have become hawks.

23 Perhaps worse, senior military leaders who knew better did not put their careers on the line by putting their reservations on the record in a timely fashion.²⁴ This is not a call to subvert civilian authority, but more candid advice would have served the nation better. On this issue, Sarkesian has the wiser counsel.

DANGERS AND REMEDIES

The real danger in the United States is not that military officers might stage a coup d'état or even that they would defy civilian authority.

25 For reasons laid out some thirty years ago by Huntington and Janowitz, that is quite literally unthinkable. If military authorities did think in such terms, the future of American democracy would be in grave doubt. As Justice Robert Jackson noted in his dissent in *Korematsu v. United States*, the Supreme Court case that upheld for a time the internment program for persons of Japanese descent in World War II:

"If the people ever let the war power fall into irresponsible and unscrupulous hands, the courts wield no power equal to its restraint. The chief [restraint] upon those who command the physical forces of the country, in the future as in the past, must be their responsibility to the political judgments of their contemporaries and to the moral judgments of history."²⁶

To the extent that the estrangement between the military and society discussed here is real, it is not healthy. Fortunately, the remedies are quite straightforward. Mutual understanding between the military and society calls for increased linkages at all levels and an understanding that the military is unique institution with standards that may not always comport with those of the society it defends.

There is always a balance to be struck between civil rights and liberties within the military and military effectiveness. Even within the military, there is a difference in the degree to which particular forces can or should be expected to mirror society.²⁷ Ideologues at either end of the spectrum only make it harder to advance sensible policies.



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Whatever other purposes are served by the military, it must remain a credible fighting force. If it cannot continue to fight and win our nation's wars, it has no reason to exist.ⁿ

1. It is more likely that a severe terrorist incident would cause the public to demand far more draconian measures than the military would be comfortable implementing.

2. Charles Dunlap Jr., "The Origins of the American Military Coup of 2012," *Parameters* 22:4 (Winter 1992-93): 2-20. This piece reads well, as do many articles in such military journals as *Parameters*, the *Marine Corps Gazette*, the *Naval War College Review*, *Airpower Journal*, and the *U.S. Naval Institute Proceedings*. It was followed by his "Melancholy Reunion: A Report From the Future on the Collapse of Civilian-Military Relations in the United States," *Airpower Journal* (Winter 1996): 93-109. A more detailed exposition of his argument, shorn of the literary devices, is in his "Welcome to the Junta: The Erosion of Civilian Control of the U.S. Military," *Wake Forest Law Review* 29:2 (1994): 341-92.

3. Samuel Huntington, *The Soldier and the State: The Theory and Practice of Civilian-Military Relations* (New York: Vintage Books, 1957), and Morris Janowitz, *The Professional Soldier: A Social and Political Portrait* (New York: Free Press, 1971). For a post-Cold War perspective on these arguments, see Peter Feaver, "The Civilian-Military Problematique: Huntington, Janowitz, and the Question of Civilian Control," *Armed Forces and Society* 23:2 (Winter 1996): 149-78.

4. Huntington, *Soldier*, 8-18. Although the focus here is on professional military officers, the author is indebted to Robert Killebrew for pointing out that this traditional emphasis is becoming outdated. Senior enlisted personnel look more and more like junior officers in their talents and responsibilities, and they may be no less "professional" than they are as Huntington uses the term.

5. Huntington, *Soldier*, 456.

6. Janowitz founded the Inter-University Seminar on Armed Forces and Society in 1960. Subsequently led by Sam Sarkesian, Charles Moskos, and David Segal, it continues to serve as an interdisciplinary "invisible college" of civilian and military scholars worldwide on issues relating to the interaction of armed forces and the societies they defend. Its journal, *Armed Forces and Society*, was also founded by Janowitz and is a primary scholarly outlet for studies on civilian-military relations.

7. Janowitz, *Professional Soldier*, 422.

8. Thomas Ricks, "The Widening Gap Between the Military and Society," *Atlantic Monthly* (July 1997): 66-78, and *Making the Corps* (New York: Scribner, 1997).

9. Ole Holsti, "A Widening Gap Between the U.S. Military and Civilian Society: Some Evidence, 1976-96," *International Security* 23:3 (Winter 1998-99): 5-42. Another perspective is that the gap is a good thing, but should be



managed. See John Hillen, "The Civilian-Military Culture Gap: Keep It, Defend It, Manage It," U.S. Naval Institute Proceedings 124:10 (October 1998): 2-4.

10. As a Navy flag officer remarked in a personal communication, "Most civilians equate military service with sacrifice--sacrifice of personal liberties, sacrifice of personal choices, and so on--and they are very much unsure that they could do the same thing, not to mention that the thought of possibly having to would be abhorrent to them."

11. Charles Moskos, "Short-Term Soldiers," Washington Post, 8 Mar. 1999: A19.

12. See Charles Moskos, with John Sibley Butler, *All That We Can Be: Black Leadership and Racial Integration the Army Way* (New York: Basic Books, 1996) for a positive interpretation of the U.S. Army's attempt to create a "race-savvy" (not race blind) force that maximizes combat readiness.

13. Graphic reports of women soldiers who are maimed, or abused as POWs, will have an especially shocking effect on the American people.

14. The policy permitting homosexual members to serve so long as they "don't tell" is an institutional version of the personal policy that most service members have followed for years. Most can think of military associates whom they knew, or strongly suspected, to be homosexual, but it did not become an issue so long as it did not affect job performance. It did not occur to them to "ask." The continuing high number of discharges for homosexuality is attributed by the services to members "telling" so they can leave the service early.

15. These are the National War College (Washington, D.C.), the Naval War College (Newport, Rhode Island), the Army War College (Carlisle Barracks, Pennsylvania), and Air University (Maxwell Air Force Base, Alabama). Each of these institutions has an outreach program to civilians involving conferences, publications, and participation in college functions.

16. Such a case is made in Sam Sarkesian, John Allen Williams, and Fred Bryant, *Soldiers, Society, and National Security* (Boulder: Lynne Rienner Publishers, 1995).

17. As Army chief of staff after Vietnam, Gen. Creighton Abrams so integrated Army active and reserve forces that it would be impossible for the Army to fight a major war without calling up the reserves (as President Johnson refused to do in Vietnam, lest it reduce public support for the war). National Guard forces, normally under the control of state governors, are part of this equation as well.

18. See John Allen Williams, "The U.S. Naval Academy: Stewardship and Direction," U.S. Naval Institute Proceedings 123:5 (May 1997), 67-72.

19. One would think that Marine culture, in particular, is sufficiently robust that it could withstand close examination--particularly by a group of academics and former officers who are, if anything, too sympathetic to the military. Probably there are deeper political agendas that are invisible to the author.

20. Sam Sarkesian, "The U.S. Military Must Find Its Voice," *Orbis* 42:3



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21. Huntington, Soldier, 459-60.

22. For an extended discussion of this issue, see H.R. McMaster, *Dereliction of Duty: Lyndon Johnson, Robert MacNamara, the Joint Chiefs of Staff, and the Lies That Led to Vietnam* (New York: HarperCollins, 1997). This book was widely read in Washington in the wake of U.S. military adventures in the Balkans.

23. See Eliot Cohen, "The Mystique of U.S. Air Power," *Foreign Affairs* 73:1 (January/February 1994): 109-24.

24. Unidentified leaks from the Joint Chiefs of Staff suggesting they had reservations about the military strategy do not count here. If they had such reservations, they failed to convince the proper civilian leaders in a timely fashion. It is as if senior military officials began to speak on the record only after they feared that the failure of the original strategy would be apparent to all. See Robert Burns, "Reimer Reveals His Views on Kosovo Strategy," *European Stars and Stripes* (27 May 1999): 1. Whatever the details of an eventual cease-fire, or its causes, the United States and NATO are likely to be militarily involved in the region for the foreseeable future.

25. There is widespread agreement on this among those who study issues of the military and society. See, for example, Eliot Cohen, "Civil-Military Relations," *Orbis* 41: 2 (Spring 1997): 177-86.

26. *Korematsu v. United States*, 323 U.S. 214 (1944).

27. See Sarkesian, Williams, and Bryant, *Soldiers, Society*, 160-62, for a discussion of the "three military" idea. In this conception, the support forces can reflect society closely, while regular ground forces and (especially) the elite and special operations forces cannot.

LANGUAGE: ENGLISH

IAC-CREATE-DATE: October 5, 1999

LOAD-DATE: October 06, 1999



LEXIS·NEXIS
A member of the Reed Elsevier plc group



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Go up + see Eddie re: mtg
w/ SLDN (teleconference? me meet?)
x62024

10/14 MA

Rudy DeLeon	Hans
Frank Rush	Brian

- Policy from DoD
Enforcement by Services
- Tension between uniform +
civilian sides reflect tension
between Admin + Congress.
- Lockland - Statement discharge
many said "Had bisexual experience"
Taken from story and out w/in 48 hrs.
Other services didn't do that.
- Biggest reason of bridge in getting
out was "Corporal Klinger" phenomenon.

- All services have come back at implementation phase for Aug 99 policy.
(Will provide paper, Laura Marcus also asking for it)
- Policy: Will not receive education benefits from proclaimed homosexuals
- AF offers plea bargain if accused names homosexuals. Other services don't
- Medical privacy: No right of confidentiality between member and doctor. Limited change for mental health workers in ACFT cases.

Zumwalt

- tainted info in Somalia discharge heard
- 99 numbers yet?
- SCDN wants policy saying COR has discretion when to initiate an investigation. Would probably go to Congress.
- climate investigation after Ft Campbell court-martials.
- relationship w/ joint Chiefs is fragile
- DOD thinks numbers are different than SCDN #'s.

What can be done

- need fair + full enforcement in the Service of policy

Policy is flawed - Has conflict built into it.

Can allow you to serve but if you make a statement, it means you are out. At heart of problem.

- Have Service Secretaries brief with on how well they are implementing new policy. (Must be done carefully to keep with out of controversy)

Points to be made:

- Leadership is essential.
- Hold leaders accountable.
- Service Secs. have responsibility to make policy work. Designate high asst to oversee.

Engage senior civilians w/
military counterparts.

- Get Service Chief on board w/ the policy.

- Conservative org.
- Limited concept of privacy
- Didn't want to be org. that moved homosexuality into mainstream

Wants to live up to the "don't ask"
part of policy.

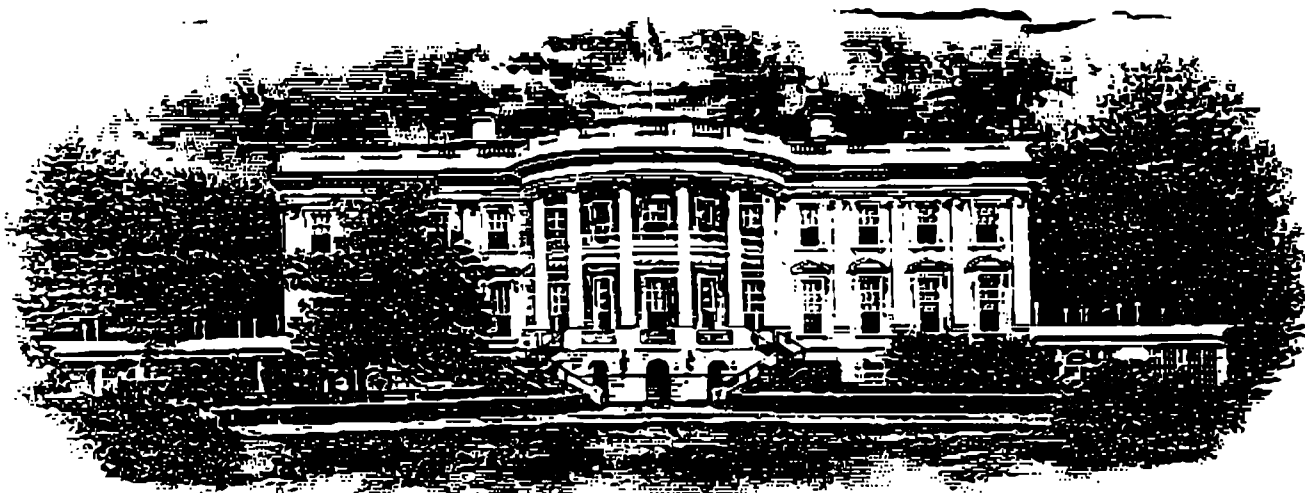
- Higher # of recruits from south & mid-west which is more conservative.
- Can't divorce mil from debate in society

Next steps?

- Allow individuals to openly state they are gay, ^{without stigma}
- Amend UCMJ to allow gay ^{discharge} conduct.

- Keep group on issue w/
DeLeon, Rush, Correa, Marcus
to coordinate implementation of
policy.

{ 1995 memo from ODGC has
clearest articulation of policy.
will FAX over. }

EXECUTIVE OFFICE OF THE PRESIDENT**OFFICE OF THE CHIEF OF STAFF**

Please Deliver To : Anne WraHo / Joe Brossard

of Pages (including cover sheet) : _____

Fax # : 6-9270 / 6-9190

Sender : Carla Marcus

Date : _____

Message : talking points for McGarry

Note : The information contained in this facsimile message is CONFIDENTIAL and intended for the recipient ONLY. If there are any problems with this transmission please call (202) 456-6798

ALLEGED VIOLATIONS OF DON'T ASK, DON'T TELL

- **Background:**

- A report due out Thursday at 9am by the Servicemembers Legal Defense Network, which monitors compliance with the gays in the military policy, show a 27% increase in 1997 of alleged violation in enforcement of don't ask, don't tell.
- If true, this would be the third straight year in which this report has shown a significant increase.
- DOD has not released the figures, but apparently concedes that 1997 also saw an overall increase in discharges of gays and lesbians.
- This report comes soon after DOD's loss in the Federal Court litigation brought by Tim McVeigh, who the Navy had attempted to discharge based on an announoumous AOL computer profile.

- **Talking Points:**

- The President and Secretary Cohen are concerned by recent press reports that raise questions about the fair and even-handed implementation of the "don't ask, don't tell policy."
- Secretary Cohen has previously announced the creation at DOD of a review panel which is examining the implementation of this policy, and which we expect will shortly issue its report. This report, as we understand it, will be accompanied by new guidelines to all personnel detailing the specific procedures authorized in these cases.
- It is our hope that these new guidelines will better ensure that the legitimate privacy rights of service members will be respected and maintained, while also enforcing both the letter and spirit of the policy.
- In developing these guidelines, DOD has been and will continue to consult with both military personnel presently responsible for enforcing the policy and with the outside groups that monitor compliance.

*** TX REPORT ***

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TX/RX NO	4975	
CONNECTION TEL		62271
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National Security Council

Washington, D.C. 20504

Fax Cover Sheet

From: Captain Joseph F. Bouchard, USN
Director for Defense Policy
Phone: 202-456-9191 Fax: 202-456-9190
E-mail: bouchard_j@al.eop.gov

To: Laura Marcus

Organization: COS

Fax Number: 62271

Number of pages that follow: 2

Message: Laura, Per my voice mail, this is the proposed press guidance I provided to PJ Crowley.

Background

The SLDN releases its annual report on gays in the military at 9:00 a.m. today in a press conference at the National Press Club. Main contention of the report will be that violations of the "don't ask" and "don't pursue" provisions of the policy increased sharply in 1997 (up 27% overall). That statistic is based on cases handled by SLDN. They contend that biggest problem is lack of understanding of the "don't ask, don't tell" policy in the field. Their report also notes positive developments in DOD (guidance issued in 1997 to reiterate and clarify DOD policy).

DOD has been conducting a review of implementation of the "don't ask, don't tell" since February last year. Original plan was to have it completed before this year's SLDN report, but current plan is to have it out by first week in March. SLDN views this review as a positive development. DOD has not released its statistics for 1997 on discharges for homosexuality because it wants to address them in its report on implementation of the "don't ask, don't tell" policy.

Press may also raise the case of Navy Chief Petty Officer Timothy McVeigh. Navy seeks to discharge McVeigh for allegedly violating the "Don't Ask, Don't Tell" policy by including language indicating a propensity to commit homosexual acts in his profile on America On-Line (AOL), which is accessible to anyone with an AOL account. McVeigh's supporters argue that his AOL profile does not constitute a violation of the "don't tell" policy and that the Navy violated McVeigh's electronic privacy by asking AOL to confirm that the profile in question belonged to him. On January 29, U.S. District Court Judge Stanley Sporkin issued a permanent injunction against discharging McVeigh for homosexuality on the grounds that Navy investigators had exceeded the limits of their authority under the "don't ask" side of the policy and had violated McVeigh's right to electronic privacy. The Department of Justice has 60 days in which to file an appeal and is currently reviewing the case with the Department of Defense and the Navy to determine whether an appeal is appropriate.

Points to be Made

- We are committed to the "Don't Ask, Don't Tell" policy. We believe that, overall, the current policy is working well and that the Administration's policy balances an

individual's right to privacy with the military's need to maintain unit cohesion and readiness.

- We are equally committed to ensuring that the Services implement the policy faithfully. Allegations of improper investigations will be pursued.

Questions and Answers

Q. Will the Administration appeal the ruling in the McVeigh case?

A. The Justice Department and Defense Department are currently reviewing the case. Please refer questions on appeals to the Justice Department.

Q. Doesn't the McVeigh case raise concerns about electronic privacy?

A. We take seriously allegations that federal law protecting every citizen's right to electronic privacy may have been violated in this case. We are paying close attention to this situation and its potentially broad implications.



CONDUCT UNBECOMING:

**THE FOURTH ANNUAL REPORT ON
“DON’T ASK, DON’T TELL, DON’T PURSUE”**

FEBRUARY 26, 1997 – FEBRUARY 19, 1998

**By: C. Dixon Osburn
Michelle M. Benecke
Servicemembers Legal Defense Network**

With:

Kirk Childress, Kelly Corbett, Travis Elliott, Jeff Cleghorn

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FINDINGS

- ★ **“Don’t Ask” Violations Surge By 39%.** SLDN documented 124 “Don’t Ask” violations in 1997, up from 89 reported violations in 1996. The Navy led the services with 46 “Don’t Ask” violations.
- ★ **“Don’t Pursue” Violations Rank As Worst Problem.** SLDN documented 235 “Don’t Pursue” violations, up 23% from last year’s figure of 191. The Air Force led the services with 90 “Don’t Pursue” violations.
- ★ **“Don’t Harass” Violations Show Violent Increase.** Incidents of anti-gay harassment increased 38% from 132 reported incidents in 1996 to 182 incidents in 1997, including death threats and physical assaults.
- ★ **Total Command Violations Climb For Fourth Straight Year.** For the fourth year in a row, command violations of “Don’t Ask, Don’t Tell, Don’t Pursue” climbed, up 27%.
- ★ **Navy Commits Most Violations.** The Navy committed 193 violations of current rules. The Navy was worst in anti-gay harassment and asking.
- ★ **Commands Use Heavy-Handed Tactics To Pursue Gays.** SLDN documented frequent use of threats during gay investigations to extract confessions, including threats of criminal charges, confinement, non-judicial punishment and “outing.”
- ★ **Commands Need Training on Limits To Gay Investigations.** SLDN documented only one case this year where military members had been trained on the limits to investigations under “Don’t Ask, Don’t Tell, Don’t Pursue.”
- ★ **Commands Need Written Guidance on Limits To Gay Investigations.** Four years into “Don’t Ask, Don’t Tell, Don’t Pursue,” most leaders have not received or read a copy of the current regulations and guidelines, and most do not know what the limits are to gay investigations.
- ★ **DoD Orders Recruiters To Stop Asking.** Secretary Cohen ordered replacement of a 1989 recruiting form that asked recruits if they were gay.
- ★ **DoD Orders End To Anti-Gay Harassment and Lesbian-Baiting.** Former Under Secretary of Defense Edwin Dorn issued a ground-breaking memorandum clarifying that commanders should investigate perpetrators of anti-gay harassment and lesbian-baiting, not their victims. No one in the field, however, is aware of this guidance.

RECOMMENDATIONS

- ★ **Issue Guidance on Limits To Gay Investigations.** DoD should issue guidance stating the limits to investigations under “Don’t Ask, Don’t Tell, Don’t Pursue” and the intent of the policy to stop prying into service members’ private lives.
- ★ **Distribute Memo On Anti-Gay Harassment and Lesbian-Baiting.** The Dorn memo on anti-gay harassment and lesbian-baiting has yet to reach the field. The services should move swiftly to get this guidance to everyone.
- ★ **Train All Service Members on Limits To Gay Investigations.** DoD has not trained most service members on the policy’s limits or the intent.
- ★ **Discipline Commanders Who Disobey Limits.** No one in the past two years has been disciplined for violating the limits to gay investigations. There must be disincentives to deter violations and incentives to do the right thing.
- ★ **Provide Recourse To Service Members To Stop Improper Investigations.** Local commanders do not know the rules. Superiors refuse to correct their mistakes. Thus, service members have nowhere to turn to stop illegal witch hunts or other violations.
- ★ **Require Commanders To State In Writing Reasons For Investigation.** DoD should instruct local commanders to articulate the reasons for starting an inquiry in writing to prevent investigations where the ends justify the means.
- ★ **Cease Use of Heavy-Handed Tactics in Gay Investigations.** DoD should train inquiry officers and criminal agents in proper investigative techniques that avoid heavy-handed tactics such as threats of imprisonment.
- ★ **Adopt Exclusionary Rule.** DoD should adopt an exclusionary rule so that evidence obtained illegally, as in a witch hunt, can be excluded at administrative discharge boards.
- ★ **Adopt Rule of Privacy for Psychotherapist/Patient Confidentiality.** DoD should adopt a rule of confidentiality for psychotherapist/patient conversations or adopt a rule that such conversations are private communications and protected under “Don’t Ask, Don’t Tell, Don’t Pursue.”
- ★ **Appoint Panel of Experts To Review Administrative Separation Process.** An expert panel including representation from outside the military should review the administrative separation process and make recommendations for improvement.

EXECUTIVE SUMMARY

Command violations of “Don’t Ask, Don’t Tell, Don’t Pursue” increased for the fourth year in a row. Command violations include instances where commands asked, pursued and harassed service members in direct violation of the limits to gay investigations under current policy. Servicemembers Legal Defense Network (SLDN) documented 563 command violations in 1997, up from 443 reported violations in 1996 (Exhibit 1). SLDN documented increased asking, increased pursuits and increased harassment in 1997. The Navy was the worst in “Don’t Ask, Don’t Tell, Don’t Pursue” compliance; the Air Force was a close second.

The reason underlying continued violations of “Don’t Ask, Don’t Tell, Don’t Pursue” is a lack of commitment from top military and civilian authorities. Military leaders have not communicated to the field the policy’s limits to gay investigations or its intent to end prying into service members’ private lives. The lack of commitment is reflected by: (1) The absence of clear and thorough guidance or training on investigative limits; (2) heavy-handed and increasingly intrusive investigative tactics against suspected gays, including coercion and fishing expeditions; (3) no recourse or redress for service members asked, pursued or harassed; and (4) a lack of accountability for those who violate current policy.

The result is a climate in many commands where “anything goes” in the pursuit of suspected gay personnel. Commanders who want to do the right thing must swim against the tide.

There are glimmers of hope. This past year marked the first time the Department of Defense has ordered replacement of old recruiting forms that asked prospective

recruits if they are gay, a problem noted in SLDN's *Third Annual Report*. In 1997, DoD also issued its first policy clarifying that commanders should investigate those who threaten or harass service members, not those who report anti-gay harassment or lesbian-baiting. Last year also marked the first time SLDN has documented more than one or two cases where commands complied with the mandates "Don't Ask," "Don't Pursue," and "Don't Harass."

As we move into the fifth year under "Don't Ask, Don't Tell, Don't Pursue," however, DoD and the services need to issue guidance stating the current limits to investigations and the intent of the policy not to pry into service members' private lives. DoD then needs to train all service members thoroughly on those limits and the policy's intent. The promises to stop asking, pursuits and harassment in 1993 were clear. General Colin Powell stated in 1993: "We will not witch hunt. We will not chase. We will not seek to learn orientation."¹ Senator Sam Nunn, former Chairman of the Senate Armed Services Committee, said, "I do not believe we should have sex squads prying into the private lives of our service members."² President William J. Clinton pledged that the policy would provide for "a decent regard for the legitimate privacy and associational rights of all service members."³ Then Senator, now Secretary of Defense, William Cohen, expressed a similar understanding of the policy when he asked then DoD General Counsel Jamie Gorelick whether the "small amount of privacy under the current policy was intended to prevent the military from prying into people's private lives." Gorelick

¹ *Policy Concerning Homosexuality in the Armed Forces: Hearings Before the Senate Comm. On Armed Services*, 103rd Cong., 2d Sess. (1993) at 709 (statement of General Colin Powell).

² Former Senator and Chairman of the Senate Armed Services Committee, Sam Nunn, *THE RECORD* A10 (May 31, 1993).

³ President William J. Clinton, *Text of Remarks Announcing the New Policy*, *THE WASHINGTON POST* A12 (July 20, 1993).

answered with a resounding “yes.”⁴

Last February, Secretary Cohen again reiterated his commitment to fair enforcement of “Don’t Ask, Don’t Tell, Don’t Pursue” when he stated on *ABC World News Tonight* that he would stop any “continued pursuits and prosecutions” under the policy.⁵ Shortly, thereafter, Secretary Cohen asked an internal review group to examine the implementation of “Don’t Ask, Don’t Tell, Don’t Pursue,” a process that is underway as this report goes to publication. SLDN looks forward to any substantive recommendations the review group may have to stop the continued asking, pursuit and harassment of service members.

This is the *Fourth Annual Report* on “Don’t Ask, Don’t Tell, Don’t Pursue” by SLDN. This report details command violations of current law documented by SLDN from February 26, 1997 to February 19, 1998. Located in Washington, D.C., SLDN is an independent legal aid and watchdog organization for those harmed by “Don’t Ask, Don’t Tell, Don’t Pursue,” and the only means currently available to document abuses. DoD has instituted no method of identifying, documenting or correcting command violations. Indeed, last May, in a *Washington Post* story, DoD conceded that it relies on SLDN’s annual reports to know what is happening in the field under its policy.⁶

⁴ *Policy Concerning Homosexuality in the Armed Forces: Hearings Before the Senate Comm. On Armed Services*, 103rd Cong. 2d Sess. (1993) at 788 (statement of Jamie Gorelick).

⁵ *World News Tonight* (ABC news broadcast, Transcript # 97022604-J04, February 26, 1997).

⁶ Bradley Graham, *Military Reviews Allegations of Harassment Against Gays*, THE WASHINGTON POST A1 (May 14, 1997).

CONCLUSION

It is time for military leaders to obey the law. Command violations of “Don’t Ask, Don’t Tell, Don’t Pursue” surged for the fourth year in a row. Commanders asked. Commanders pursued. Commanders harassed. These violations must stop. They cannot and should not be justified by uniformed leaders or senior officials of any service.

The path is clear. The Department of Defense and the services need to issue written guidance to all service members about the limits on investigations under “Don’t Ask, Don’t Tell, Don’t Pursue.” Leaders must train everyone so that the intent of the policy, as articulated by General Colin Powell, Senator Sam Nunn, Secretary of Defense William Cohen, and the Commander-in-Chief, President William J. Clinton, is perfectly clear: Stop prying.

Last year, in response to SLDN’s *Third Annual Report* on “Don’t Ask, Don’t Tell, Don’t Pursue,” Secretary Cohen ordered a review of the implementation of the current policy. He promised an end to the “pursuits and prosecutions.” We look forward to the results of DoD’s review and hope that the Pentagon will begin to address the problems shown in implementation of “Don’t Ask, Don’t Tell, Don’t Pursue” over the past four years.

It should be a wake-up call to military leaders that Professor Charles Moskos, the architect of “Don’t Ask, Don’t Tell, Don’t Pursue,” has criticized the heavy-handed enforcement of current regulations. In the words of Professor Moskos: “heavy-handed ‘enforcement’ will inadvertently undermine the ‘Don’t Ask, Don’t Tell’ policy by eroding confidence among servicemen that the [military] will not ‘ask’ if they do not ‘tell.’ It is these kinds of actions by the military...that pose the greatest threat to the

efficacy of the policy....” (Exhibit 17) While we do not agree with Professor Moskos about the efficacy of the policy, we do agree that the military must obey its own rules. Continued command violations of the basic limits on investigations under “Don’t Ask, Don’t Tell, Don’t Pursue” will not only erode confidence within the military, it will erode the confidence of the American people. Americans cannot view military officials as acting in good faith in light of reports that commanders are interrogating parents and psychologists and conducting intrusive fishing expeditions in their endless pursuit of suspected gays in the ranks.

Bouchard, Joseph F.

From: Bouchard, Joseph F.
Sent: Wednesday, February 18, 1998 5:54 PM
To: @NSA - Natl Security Advisor
Cc: @DEFENSE - Defense Policy; @EXECSEC - Executive Secretary; @LEGAL - Legal Advisor; @PRESS - Public Affairs
Subject: Annual Report on Gays in the Military [UNCLASSIFIED]

The Servicemembers Legal Defense Network (SLDN) will release its annual report on gays in the military at 9:00 a.m. tomorrow in a press conference at the National Press Club. Main contention of the report will be that violations of the "don't ask" and "don't pursue" provisions of the policy increased sharply in 1997 (up 27% overall). That statistic is based on cases handled by SLDN. They contend that biggest problem is lack of understanding of the "don't ask, don't tell" policy in the field. Their report also notes positive developments in DOD (guidance issued in 1997 to reiterate clarify DOD policy).

DOD has been conducting a review of implementation of the "don't ask, don't tell" since February last year. Original plan was to have it completed before this year's SLDN report, but current plan is to have it out by first week in March. SLDN views this review as a positive development.

Michelle Benecke of SLDN stated in meeting with EOP representatives today that SLDN liked the comments made by the White House on last year's report and would be happy to see similar comments again this year.

SLDN has not provided advance information on the report to the press and does not expect coverage until after their press conference. I will prepare press guidance for tomorrow morning.

Joe Bouchard

SLDN Meeting 2/18

Report out tomorrow

No press until after 0900 Press Conf.

Violations of policy up signy

- ask
- pursue
- harass

Overall 127%

Press guidance

DOD won't release statistics for '97 on gay discharges.

Message they want to see

- Take seriously
- Look into allegations
- Be supportive of DOD policy clarification

The "prove you're gay" phenomenon

DOD says "tell" cases up

High profile - Americans looking at treatment of gays under "DA/DT"

Ensure DOD & WH message consistent

GAYS IN THE MILITARY

March 16, 1999

Background: The Servicemember's Legal Defense Network (SLDN) released its annual report on gays in the military yesterday. SLDN's main contention is that violations of the "don't ask" and "don't pursue" policies in 1998 were more than double the number they found in 1997. They contend that biggest problem is lack of understanding of the "don't ask, don't tell" policy in the field because guidance issued in 1997 to reiterate and clarify DOD policy was not adequately disseminated. SLDN notes positive developments, including decreases in abuse by military investigators, mass investigations, and criminal prosecution of homosexual servicemembers. DOD concedes a record number of discharges under the don't ask, don't tell policy, but contends that the vast majority are due to service members voluntarily professing their homosexuality (which is consistent with the positive trends noted by SLDN).

Points to be Made

- We remain committed to the "Don't Ask, Don't Tell" policy. We believe that, overall, the current policy is working well and that the Administration's policy balances an individual's right to privacy with the military's need to maintain unit cohesion and readiness.
- We are equally committed to ensuring that the Services implement the policy faithfully. Allegations of improper investigations will be pursued.

Questions and Answers

If the "Don't Ask, Don't Tell" policy is working well, how do you explain the increase in discharges of homosexuals?

- You will have to refer that question to DOD.

Do you agree with DOD's explanation for the increase in discharges of homosexuals?

- I don't think it would be fair for me to attempt to generalize about such a complex issue. The important point is that the Administration remains committed to the "Don't Ask, Don't Tell" policy and to ensuring that the Services implement the policy faithfully.

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CONDUCT UNBECOMING

The Third
Annual Report on
"Don't Ask,
Don't Tell,
Don't Pursue"

February 28, 1996 - February 26, 1997

C. Dixon Osburn, Esq.

Michelle M. Benecke, Esq.

Kirk Childress, Esq.

Servicemembers Legal Defense Network



Embargoed For Release:
February 26, 1997