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National Gay and Lesbian Task Force

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HOA PROGRAM

WELCOME

Rachel Rosen and Jerry Clark

INTRO. HONORING OUR ALLIES CO-CHAIRS

Rachel Rosen and Jerry Clark

INTRO. NEW EXECUTIVE DIRECTORS

Rachel Rosen and Jerry Clark

RECOGNITION SPONSORS AND OTHER NOTABLES

Rachel Rosen and Jerry Clark

AWARD PRESENTATION

Sandy Thurman – award presented by Ernest Hopkins, San Francisco
AIDS Foundation

Lawrence Tribe –award presented by Suzanne Goldberg, Lambda
Legal Defense Fund

Kathy and Jennifer Levinson –award presented by Rachel Rosen

Wilson Cruz – award presented by Russell Roybal

Indigo Girls – award presented by Mary Farmer

Present one minute Indigo Girls Video

Lifetime Achievement award to Kate Clinton – award presented by
Jeffrey Slavin

Auction – Indigo Girls guitar

CLOSING REMARKS

Jerry and Rachel

Please Join the Staff and Board of the
National Gay and Lesbian Task Force

Saturday, April 29, 2000

12:00 pm- 2:00 pm

National Museum of Women in the Arts

1250 New York Avenue, NW
Washington, DC

Light Fare

Tickets begin at \$75 per person

Advanced purchase suggested

Space is limited. For more information,
contact 202/332 6183, ext. 3219





National Gay and Lesbian Task Force

0-10961F

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CFC # 2622



National Gay and Lesbian Task Force

Sandra Thurman
The White House
The Office of National AIDS
Policy
736 Jackson Place, NW
Washington, DC 20503

Dear Ms. Thurman,

The National Gay and Lesbian Task Force (NGLTF) is extremely pleased that you have accepted the *Honoring Our Allies* award. You have been a tireless fighter against HIV and AIDS, and have been a champion for gay, lesbian, and transgender civil rights. We are thrilled to recognize and honor you for your compassion, dedication, hard work and vision.

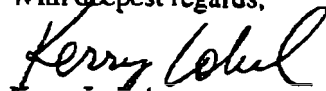
The *Honoring Our Allies* award was established in 1989 to honor our allies in the straight community. This event has become an important and valued tradition at NGLTF as it allows us to honor those individuals who have been allies for the civil rights of gay, lesbian, bisexual, and transgendered people. You are joining a long list of honorees, including: Mrs. Coretta Scott King, Attorney General Janet Reno, former Surgeon General Jocelyn Elders, Senator Edward Kennedy, House Democratic Leader Richard Gephardt, Rep. Loretta Sanchez, the Congressional Black Caucus, Health and Human Services Secretary Donna Shalala, and eleven South Africans, including President Nelson Mandela, who were instrumental in getting a broadly inclusive Equal Rights Clause into the South African Constitution.

Founded in 1973, the National Gay and Lesbian Task Force is the nation's oldest, progressive gay, lesbian, bisexual and transgender civil rights organization. NGLTF's goal is to represent and work on issues of concern to the full depth and breadth of diversity in our gay, lesbian, bisexual and transgender communities. NGLTF has a long-standing commitment to making the linkages between sexism, racism, classism, homophobia and other issues. This is reflected in our mission statement, bylaws, programming, and choices we make about strategic coalition partners.

The reception and awards ceremony is scheduled for Saturday, April 29, 2000 at the National Museum of Women in the Arts in Washington, DC. In the coming weeks, we will provide more information about the event. We would welcome the opportunity to answer any questions you might have about the award, the event, or NGLTF. Sonya Shields, the Director of Development, may be reached at 202/332-6483, ext. 3209.

We are excited that you will be able to join us for this historic event, as we celebrate eleven years of *Honoring Our Allies*. Thank you again for the contributions you have made to the gay, lesbian, bisexual and transgender community. I may be reached at 202/332-6483, ext. 3307.

With deepest regards,


Kerry Lobel
Executive Director



**National Gay and
Lesbian Task Force**

Kerry Lobel
Executive Director

202/332-6483 ext 3307
klobel @ ngltf.org

2320 17th Street NW ■ Washington DC 20009-2702
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THE WHITE HOUSE
WASHINGTON

July 21, 1997

GAY AND LESBIAN LEADERS MEETING

DATE: July 22, 1997
LOCATION: Roosevelt Room
TIME: 5:30 PM
FROM: Maria Echaveste, Richard Socarides

I. PURPOSE:

You are meeting with thirteen gay and lesbian leaders as part of our constituency outreach effort. This is the second in a series of meetings with various constituencies. The purpose of the meeting is for you to hear directly concerns and issues from a variety of perspectives.

At this meeting, four of the participants are the Executive Directors of Washington based national gay and lesbian organizations. Four other participants run other types of gay organizations not based in Washington: The Los Angeles Gay and Lesbian Center; Lambda, the country's premier gay legal organization; an organization of gay and straight teachers; and a small social services organization in New York City for gay youth. Another participant from Tulsa, Oklahoma, a mother of four who has been married for 39 years, is the National President of an organization of parents of gay children. Two are businessmen and philanthropists, one of whom is in the Forbes 400. Also attending is the Maine State Treasurer and an activist from New Mexico.

Seven of the participants are women and six are men. Two of the participants are Latino/a, one is African American. All but one, the mother from Tulsa, is gay. A list of participants is annexed as attachment 2.

II. BACKGROUND

We selected this group to come to the White House after consulting with Craig Smith, Fred Duval, Barney Frank and some of our gay and lesbian appointees within the Administration.

constituency demographics:

- Gays and lesbians make up between 6-10% of the United States population.
- According to Voter News Service (VNS), which did exit polling for the television networks and the Associated Press, in 1992 approximately 3% of those voting identified themselves as gay or lesbian. In 1996, again according to VNS, that number rose to 5%. These numbers are believed to represent under-valuations, as many gays may be reluctant to identify themselves. The gay and lesbian vote was as follows:

1992: Clinton-	72%	1996: Clinton-	66%
Bush-	14	Dole-	23
Perot-	14	Perot-	7
other-	--	other-	4

- In 1992, gays and lesbians represented at least 5% of the total Clinton/Gore vote and in 1996 they represented at least 7% of the total Clinton/Gore vote.

major gay and lesbian policy concerns:

- **Employment Non-Discrimination Act:** The Act would outlaw workplace discrimination against gays and lesbians and was endorsed by you on October 19, 1995. **Senate status:** In the Senate, ENDA was introduced June 10, 1997 by Senators Jeffords and Kennedy, chair and ranking on the Senate Labor and Human Resources Committee. The bill has 34 co-sponsors (Chafee is the only other Republican on the bill at present). Hearings in that committee are expected sometime in September or October of this year. The current thinking is that, like last year, the sponsors will have to attempt to attach this measure to another vehicle on the floor before the end of the year. Last year they attempted to add ENDA as an amendment to the so-called Defense of Marriage Act (same-sex marriage). **House status:** ENDA was introduced in the House as H.R. 1858 on June 10 by Congressmen Shays (R-CT) and Frank (D-MA). The measure, which has 151 cosponsors (12 Republicans and 139 Democrats), has been referred to four committees with jurisdiction -the Judiciary Committee, the Government Reform and Oversight Committee, the Education and Workforce Committee and the House Oversight Committee. While no committee has taken any action on the measure to date, the bill's lead sponsors are working hard to schedule hearings in the Government Reform Committee and the Education Committee -the two committees with the greatest number of ENDA cosponsors. The time frame for any House ENDA hearings is September at the earliest.
- **Anti-gay violence and hate crimes directed at gays and lesbians:** Gay and lesbian community leaders lavishly praised your recent radio address remarks during which you announced the convening of the White House Conference on

Hate Crimes on November 10, 1997. We have been working closely with gay groups in connection with the planning of the conference. These groups are asking us to support expansion of current federal hate crime legislation to include sexual orientation. DOJ is working closely with Senator Kennedy on this. (See attachment 3 for expanded discussion of current legislative proposals.)

- **Versace murder:** On a related front, gay anti-violence groups are working closely with law enforcement officials in light of the murder of Gianni Versace in Miami last Tuesday.
- **Same sex domestic partner benefits:** Many private sector employers (including the DNC) are now providing some kind of domestic partner benefit. Additionally, Hawaii now has a state law providing for these benefits. Congressman Frank will soon introduce legislation which would grant domestic partner benefits to federal employees. No Administration position has been articulated on these issues to date. See attachment 4 for proposed talking points on domestic partner benefits.
- **Same-sex marriage bill:** Residual anger over the administration's support last year of the same-sex marriage bill, which became law on September 20, 1996. The law provides for a denial of federal benefits to same-sex couples who may become legally married in the state in which they reside and would allow states to deny recognition of same-sex marriages legally preformed in other states. There is currently an effort in Hawaii to amend the state constitution -- prior to the expected pro-marriage court ruling -- to prohibit same-sex marriage.
- **HIV and AIDS issues:** Especially needle exchange and AIDS funding issues. (See attached briefing from Sandy Thurman. [5] and talking points on needle exchange [6]).
- **Appointments of openly gay and lesbian Americans to Administration positions.** See attached briefing from Bob Nash [6].
- **Gays in the military:** Issues relating to the Administration's early efforts to end discrimination against gays and lesbians in the military and alleged violations of the "don't ask, don't tell" policy which followed are still hot topics. In a decision that was hailed by gay rights attorneys, a Federal District Court in New York recently called the policy "degrading and deplorable" (*US v. Able*). We continue to work with advocates for gay and lesbian service-members to ensure that the policy is enforced fairly and in a manner consistent with its intent to make life better for gays and lesbians willing to abide by the policy. Secretary Cohen recently instituted a comprehensive policy review to determine whether the policy is being fairly executed and has said of allegations of abuse: "I will do everything I can to see that it's stopped." See attachment 7 for DOD update and attachment 8 for DOJ update.

- **Immigration rights for same sex partners of U.S. citizens.** For the first time ever under your Administration, INS has granted political asylum based on sexual orientation persecution claims.
- **Anti-gay bias in schools.** This issue recently received national attention when a \$900,000 settlement was reached after a jury award to Jamie Nabozny as compensation for harassment he was subjected to in his high school. The Department of Education has issued a policy guidance on sexual harassment of students which includes certain forms of harassment based on sexual orientation. See Education briefing attached as 9.
- **Colorado case:** DOJ's decision not to file a brief opposing Colorado's anti-gay Amendment Two at the Supreme Court.

III. PARTICIPANTS

Pre-brief participants:

Sylvia Mathews
 Rahm Emanuel
 Maria Echaveste
 Craig Smith
 Sandy Thurman
 Richard Socarides

Event Participants:

13 gay and lesbian leaders (see attachment 1)
 Sylvia Mathews
 Maria Echaveste
 Craig Smith
 Sandy Thurman
 Richard Socarides

IV. PRESS PLAN

White House Photo will be released after the meeting.
 After the meeting, Elizabeth Birch and one or two other participants will go to the stakeout.

V. SEQUENCE OF EVENTS

You will welcome the participants to the White House and make brief comments regarding your desire to hear their issues and concerns. You will then invite them to make comments.

VI. REMARKS

None required.

VII. ADDITIONAL ATTACHMENTS

- Seating plan [1]
- Annotated bios of participants [2]
- Briefing on hate crimes legislation [3]
- Talking points on domestic partner issues [4]
- Briefings on AIDS issues [5]
- Talking points on needle exchange [6]
- Briefing on appointments of gay and lesbian Americans [7]
- DOD briefing on "don't ask, don't tell" [8]
- DOJ briefing on "don't ask, don't tell" [9]
- Education briefing on sexual orientation harassment in schools [10]
- Summary of first term accomplishments on gay and lesbian issues and issues relating to HIV and AIDS [11]

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Event participants (seated clockwise beginning to your left)

Detailed bios appear as attachment ____:

- **Kevin Jennings of New York, New York** is Executive Director of the Gay, Lesbian and Straight Teachers Network (GLSTN, pronounced "glisten") which brings together gay and straight teachers, parents and community members who are working to end anti-gay bias in K-12 schools. Earlier this year he was named by *Newsweek* as one of the 100 people to watch in the next century.
- **Kerry Lobel of Washington, DC** is Executive Director of the National Gay and Lesbian Task Force.
- **Martin Ornelas-Quintero of Washington DC** is Executive Director of the National Latino/a Lesbian and Gay Organization.
- **Lorri Jean of Los Angeles, California** is Executive Director of the L.A. Gay and Lesbian Center, the world's largest gay and lesbian organization, with funding of over \$18 million. She previously served as a FEMA Deputy Regional Director.
- **Brain Bond of Washington, DC** is Executive Director of the Gay and Lesbian Victory Fund, a PAC which raises funds for gay and lesbian candidates for public office. Last year he served as Director of Gay and Lesbian Outreach at the Democratic National Committee.
- **Gloria Nieto of Santa Fe, New Mexico** is Executive Director of the People of Color AIDS Foundation of New Mexico. She has been an active member of New Mexico's civil rights community and served as New Mexico Co-Chair of Gays and Lesbians for Clinton/Gore '96.
- **Elizabeth Birch of Washington, DC** is Executive Director of the Human Rights Campaign, the country's largest national lesbian and gay political organization.
- **Jeff Soref of New York, New York** is Co-Chair of the Empire State Pride Agenda, New York's gay and lesbian political organization. He was National Co-Chair of Lesbians and Gays for Clinton/Gore '96.
- **Dale McCormick of Augusta, Maine** is the Treasurer of the State of Maine. In 1996 she narrowly lost a bid for the Democratic nomination in Maine's First Congressional District. She previously served in the Maine State Senate. She is a carpenter and contractor.
- **Kevin Cathcart of New York, New York** is Executive Director of Lambda Legal Defense and Education Fund, the country's oldest and largest legal organization working for the civil rights of lesbians, gay men and people with HIV. Lambda is co-counsel in the Hawaii marriage case and was lead counsel in *Romer v. Evans*, in which the Supreme

Court rules for the first time that gays were entitled to equal protection rights.

- **Nancy McDonald of Tulsa, Oklahoma** is National President of the Board of Directors of Parents, Families and Friends of Lesbians and Gays, known as "P-FLAG." She is a medical technologist who has been active in local volunteer efforts for over 40 years, including the Girl Scouts and the Tulsa Boys' Home. She has been married for 39 years and has five children, one of whom is adopted.
- **Tim Gill of Denver, Colorado** is Founder and Chairman of Quark, Inc., a computer software company specializing in desktop publishing. He is also founder of the Gill Foundation, which gives away over \$2 million a year to lesbian and gay community projects. For the last several years he has been listed in the Forbes 400 directory.
- **Verna Eggleston of New York, New York** is Executive Director of the Hetrick-Martin Institute, a social service agency for gay and lesbian youth.

3

SUMMARY OF DEPARTMENT OF JUSTICE HATE CRIME INITIATIVE

At the direction of the Attorney General, the Department of Justice has undertaken to develop a Department-wide initiative to address the problem of hate crime. A hate crime working group has been established with representatives from interested components across the Department. In addition to charting the Department's future course on hate crime, the initiative should serve as one of the building blocks of the White House's Conference on Hate Crime, scheduled for November 10, 1997.

Addressing the problem of hate crime requires a coordinated approach by a multitude of players, including state and local prosecutors, local and national community groups, and a number of components within the Department. To help to develop this coordinated approach, the Working Group has identified five principal areas of focus: Legislative Initiatives; Data Collection and Analysis; Community Outreach; Prosecution and Enforcement; and Internal Coordination. The Working group intends to present to the Attorney General by the end of the summer an integrated hate crime proposal that contains recommendations in each of these areas.

Although the details of the hate crime proposal remain to be developed, the final plan is likely to involve coordinated efforts by the United States Attorneys Offices and FBI regional offices to meet with state and local law enforcement, representatives from other federal agencies, and community groups to develop plans tailored to the hate crime problems of the local community.

One of the legislative initiatives under consideration concerns possible amendments to the principal criminal civil rights statute, 18 U.S.C. §245. The Department is considering, for example, amendments that would expand the reach of §245 to prohibit crimes of violence against a person because of that person's sexual orientation, disability, or gender. This legislative initiative raises difficult issues of constitutional law (because of recent case law from the Supreme Court on the reach of Congress' under the Commerce Clause) and policy (because of the tremendous number of crimes that might be "federalized" by the broadest proposals and the resources required to address these newly-federalized crimes).

The Department has met with representatives from a coalition of civil rights groups to discuss the §245 issue, and has also been in close contact with Senator Kennedy's staff to discuss these issues in light of a draft bill that Senator Kennedy is considering. We will continue to be in contact with these and other relevant players as the legislative strategy develops.

4

Talking Points

Domestic Partnership Benefits for Same-Sex Couples

Socarides and Kagan 7-21-97

- I understand that many private sector employers are beginning to offer some type of benefit in this area and that the law that recently took effect in Hawaii provides certain benefits to same-sex couples. I also know that the DNC recently instituted such a policy. And Barney Frank has talked to me about legislation he intends to introduce which would provide these benefits for federal employees.
- I had previously asked Bruce Reed, my domestic policy adviser, to look at these issues and he is doing so while at the same time monitoring the developments in the private sector.
- While I'm sympathetic to many of the concerns raised, I think we will have to monitor for a time how these policies work in practice and take a hard look at what's happening in the private sector and in communities which have instituted such policies.

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MEMORANDUM FOR THE PRESIDENT

From: Sandy Thurman

Date: July 21, 1997

Subject: Update on HIV/AIDS Issues

This memorandum is to provide you with a quick update on current HIV/AIDS issues.

Background - While the AIDS groups are grateful for the support the Administration has given them in the past, there is considerable anxiety and doubt regarding our ongoing commitment to this issue. This concern began when AIDS programs (including the Ryan White CARE Act) were removed from the list of protected programs in the balanced budget agreement. The community interprets this action to mean that the issue has been "de-prioritized." In addition, following the release of guidelines for AIDS treatment which indicated more aggressive use of triple drug combinations, the Administration did not request any additional dollars in the 1998 budget for ADAP (AIDS Drug Assistance Programs). All this, combined with the fact that the report the Vice President requested on Medicaid expansion to people with HIV stalled and that little visible progress has been made on removing the restrictions on federal funding for needle exchange programs, has made the AIDS community a little irritated with us.

We have been working nonstop with the AIDS groups on these issues. The bottom line is, while we have pending issues, it has been a pretty extraordinary year so far for the AIDS community.

Needle Exchange Programs - The House Appropriations subcommittee for Labor, Health and Human Services marked up their bill on July 15, preserving the authority of the Secretary of HHS to lift the restrictions on use of federal funds for needle exchange programs. HHS does not expect a challenge to this at full committee next week, and is pursuing a strategy of watchful waiting, maintaining a low profile for as long as possible. Most of the AIDS groups accept this strategy as long as the Secretary's authority is not endangered. We held a meeting at the White House last week with the AIDS groups and HHS to facilitate communication on this issue.

Funding Issues - In the House Appropriations subcommittee mark-up, the full \$40 million increase in the Administration's FY 1998 budget request for the Ryan White CARE Act programs was provided, with some reallocation of the increases among Ryan White programs. In addition, OMB and Rep. Porter worked closely together to support a \$132 million increase for the Ryan White AIDS Drug Assistance Program (ADAP) in the Chairman's mark. No formal budget amendment was sent forward for this, given the size of the offset, but the AIDS groups are aware and grateful for the Administration's support in reaching this number.

The House subcommittee increased funds for AIDS prevention by \$5 million (\$12 million below budget request) and an AIDS research increase of \$73 million (\$33 million above budget request). The Senate Labor/HHS subcommittee's 602B allocation is \$200 million below the House's,

making it less likely that the Senate will fund AIDS programs at the House levels. In VA/HUD, the Housing Opportunities for People With AIDS (HOPWA) program has been funded at the budget request of \$204 million (an \$8 million increase).

Medicaid Expansion for HIV Infection - On April 9, the Vice President requested that HHS report to him on the feasibility of a Medicaid demonstration project expanding Medicaid eligibility to people with HIV infection prior to the onset of full-blown AIDS. Currently, over 50% of people with AIDS depend on Medicaid for their health care. New AIDS therapies like the protease inhibitor drugs have been effective in delaying disability and reducing hospital costs for many people, raising the question if earlier access to drug therapies and primary care would prove cost-effective for Medicaid as well as other public spending for services to people with HIV/AIDS. HHS presented a discussion paper to the Vice President's office in late May/early June, and is now reworking it to address budget concerns. We expect to see a demonstration program limited to several sites with a capped enrollment, sufficient to answer the cost and services utilization and health outcome questions but limited budget vulnerability. HHS will probably present their revised proposal within a month.

Model Clinical Practice Guidelines for Treatment of HIV Infection - On June 19, an independent panel of experts convened by HHS and the Kaiser Family Foundation published treatment guidelines for antiretroviral therapy in adults and adolescents. The draft guidelines address a critical need among providers as how to best to use new AIDS drugs most effectively. The guidelines recommend a more aggressive approach to treatment using triple drug combinations at earlier stages of HIV infection, to avert immune system damage.

While these guidelines are not technically a government document, issues of payment for this new standard of care clearly confront us. HHS has stressed that the responsibility for HIV treatment is a shared one with the federal government, states, private and non-profit sectors and individuals each playing an important role. The additional \$132 million in ADAP funding included in the House Appropriation's subcommittee is a good start towards trying to address expanding demand for these new therapies.

Decrease in the AIDS Death Rate - Saving the best news for last, on July 14 the CDC released new figures showing a 19% decrease in the number of AIDS deaths in the first nine months of 1996, compared with the same period of 1995. In contrast with earlier data, the number of deaths due to AIDS among women decreased 7%, and mortality numbers dropped for all racial groups and categories of HIV transmission. The CDC attributed these findings to greater access to medical care and the development of effective therapies for HIV and associated opportunistic infections. AIDS advocates noted that as AIDS death rates drop, there are increasing numbers of individuals living with HIV who require access to these lifesaving interventions. Clearly, our investment in the AIDS epidemic is beginning to pay off as a significant achievement, given increasing AIDS deaths and infections worldwide. *It is important to note, however, that there is no evidence that the number of new HIV infections is slowing which means that prevention and education efforts must be reinforced.*

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July 21, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: BOB J. NASH, Assistant to the President and Director of
Presidential Personnel

RE: **Gay and Lesbian Appointments**

Background

During the first term, you appointed four openly gay and lesbian people to full-time PAS positions. With the exception of Roberta Achtenberg, former Assistant Secretary of Housing and Urban Development for Fair Housing, these individuals continue to serve in the Administration. They are:

- Bruce Lehman -- Assistant Secretary of Commerce for Patents and Trademarks;
- Jesse White -- Chairman of the Appalachian Regional Commission; and
- Hal Creal -- Chairman of the Federal Maritime Commission.

Recently, you received letters, which were also released to the press, from the Human Rights Campaign, the Gay and Lesbian Victory Fund, and numerous openly gay and lesbian elected officials complaining about the lack of senior level appointments during the second term. Elizabeth Birch and Brian Bond, executive directors of the Human Rights Campaign and the Gay and Lesbian Victory Fund, respectively, will be in attendance at Tuesday's meeting.

Status Report

As of today, you have selected or appointed approximately 30 openly gay and lesbian people to administration posts since January 1, 1997. These positions include White House staff, Senior Executive Service (SES) and Schedule C slots, as well as two PAS positions which have not yet been publicly announced (Jim Hormel, Ambassador to Luxembourg and John Berry, Assistant Secretary of the Interior for Management and Administration). In addition, next week I will be forwarding my recommendation of Todd Dickinson to be Deputy Commissioner for Patents and Trademarks (PAS) at the Commerce Department.

Following is a list of openly gay and lesbian candidates who are under active consideration for PAS and SES positions:

- Fred Hochberg -- Member, Federal Trade Commission (PAS); or Deputy Administrator, Small Business Administration (PAS)
- Virginia Apuzzo -- Assistant to the President for Management and Administration, EOP (PA); or Assistant Administrator for Management, EPA (PAS)
- Gail Shibley -- Department of Transportation (SES)
- Romy Diaz -- Assistant Secretary for Management and Administration, Department of Energy (PAS)
- Gordon Tanner -- General Counsel, United States Air Force (SES); or Principal Deputy General Counsel, Department of Defense (SES)
- Vic Basile -- Peace Corps (SES); or Corporation for National and Community Service (SES)

Talking Points

- Within the next several weeks, we plan to have most of these candidates approved for nomination or appointment.
- If only the candidates who have already been selected, but not yet announced, (Hormel, Berry, Dickinson) are eventually confirmed, we will still have achieved a 50% increase in the number of openly gay and lesbian Senate-confirmed appointees as compared to the first term (from 4 to 6).
- During the first term, you appointed approximately 100 openly gay and lesbian people to Administration posts. Given the greatly reduced number of positions available this term, the 30 appointments thus far constitute a significant statistical increase in the representation of gays and lesbians in the Administration.

THE POLICY GOVERNING SERVICE OF HOMOSEXUALS IN THE MILITARY

Summary of the Policy

A federal statute requires the discharge of any service member who engages in homosexual conduct, which includes homosexual acts, statements of homosexuality, and homosexual marriages. 10 U.S.C. § 654(b). A member's sexual orientation is considered a personal matter and is not a bar to continued service unless manifested by homosexual conduct. A statement that one is a homosexual, however, raises a rebuttable presumption that one will engage in homosexual acts, and will result in discharge unless the service member rebuts the presumption at a hearing before an administrative board.

DoD policy prohibits the questioning of recruits concerning sexual orientation, and also prohibits subsequent inquiries or investigations solely to determine a service member's sexual orientation. A commander may initiate an investigation, however, upon receipt of credible information that a service member has engaged in homosexual conduct.

Implementation of the Policy

Statistics. Although the number of service members discharged for homosexual conduct fluctuates from year to year, the number has not changed materially since Congress enacted 10 U.S.C. § 654. Since 1989, fewer than 1,000 individuals have been discharged each year for homosexual conduct, which each year was less than .06% of the Armed Forces.¹

The overwhelming majority of discharges for homosexual conduct are uncontested and are processed administratively. More than 75% of the cases last year were "statements" cases, as

¹ For example, DoD records indicate that there were 708 such discharges in 1992, 682 in 1993, 597 in 1994, 722 in 1995, and 841 in 1996. The increase in the number of homosexual conduct discharges reported in the last two years appears to have resulted largely from changes in record-keeping methods instituted since the statute was enacted. In the mid-1980s, records indicate that there were typically in excess of 1,500 discharges per year, which amounted to more than .075% of the Armed Forces.

opposed to homosexual acts or marriages cases, and we believe that the bulk of the "statements" cases involve service members identifying themselves to their commanders or peers as homosexuals. Nearly 50% of those discharged for homosexual conduct last year were junior enlisted personnel with less than one year of service. More than 80% had less than five years of service. The vast majority of those discharged receive honorable discharges or general discharges under honorable conditions. A very small number are discharged by court-martial; these cases involve additional charges or aggravating circumstances, such as violence or activity involving minors. Thus far there have been around a dozen cases in which service members have successfully rebutted the presumption arising from their statements of homosexuality that they will engage in homosexual acts, and have therefore been allowed to continue to serve.

Policy Review. The Office of the Under Secretary of Defense (Personnel & Readiness) is currently conducting a systematic review of how well the policy on homosexual conduct is being applied and enforced. The Secretary of Defense expects to receive a report from this review committee early this fall. The committee is thoroughly reviewing allegations raised by Congressman Frank, the Servicemembers' Legal Defense Network, and others that the services have violated the policy governing service of homosexuals in the military. Among other issues, the committee is reviewing allegations of "witch-hunts" against suspected homosexuals (e.g. on the USS Simon Lake and at Hickam Air Force Base), claims that the services are unfairly pursuing recoupment of financial benefits (e.g. tuition payments and reenlistment bonuses) from service members discharged for homosexual conduct, and assertions that revelations of homosexual conduct made to chaplains and physicians should not be a basis for discharge.

Threats. The Department has recently released a memorandum clarifying that the fact that a service member reports being threatened because he or she is said to be a homosexual shall not by itself constitute credible information justifying the initiation of an investigation of the threatened service member. The memorandum stresses that the report of a threat should result in a prompt investigation of the threat itself, and that service members should be able to report crimes free from fear of harm, reprisal, or inappropriate governmental response.

Litigation. Numerous lawsuits have been brought by service

members across the country challenging the constitutionality of 10 U.S.C. § 654. These lawsuits have alleged that the statute violates the Equal Protection and Due Process clauses, as well as the First Amendment. All four courts of appeals (the Second, Fourth, Eighth, and Ninth Circuits) that have addressed the constitutionality of the statute thus far have upheld it. The Supreme Court has declined to review the two cases to arrive before it. A federal district court in New York recently held the statute unconstitutional; that decision will be appealed.

"GAYS IN THE MILITARY" LITIGATION

Status as of 7/21/97

- Background. The current Department of Defense policy provides that "homosexual conduct" is a basis for separation from the military. Homosexual conduct is defined as a homosexual act, a homosexual marriage, or a statement that demonstrates a likelihood or intent to engage in a homosexual act. A member's statement that he or she is a homosexual gives rise to a rebuttable presumption that the member engages in, or is likely to engage in, proscribed homosexual acts; however, the member is retained if he or she rebuts the presumption. Similarly, a member who engages in a homosexual act will be retained if he or she demonstrates, inter alia, that the act was a departure from the member's customary behavior and is not likely to recur. The policy provides that sexual orientation, by itself, is not a bar to military service.

The policy is being challenged primarily on two constitutional theories: (1) the policy's distinction between heterosexual and homosexual conduct is irrational, and thus violates equal protection; and (2) the policy's use of a member's statement of homosexuality to create a rebuttable presumption of unfitness for military service violates the First Amendment. The Department of Justice is defending the constitutional validity of the policy.

- Decisions to Date. Four courts of appeal have decided cases challenging the current policy. All four courts have upheld the challenged aspects of the policy:
 - 2d Cir. — Able (holding that the "statements" component of the policy was valid on the assumption that the "acts" component is valid; remanding to district court for ruling on acts component — see "Recent Developments" below)
 - 4th Cir. — Thomasson (upholding statements component); Selland (following Thomasson)
 - 8th Cir. — Richenberg (upholding statements component)
 - 9th Cir. — Philips (upholding acts component)

The Supreme Court has declined to review the Thomasson and Richenberg cases. A request for Supreme Court review is pending in Selland.

- Pending Cases. Challenges to the current policy are pending in two courts of appeals:

- 4th Cir. — Thorne (challenge to statements component; awaiting scheduling of oral argument)
- 9th Cir. — Holmes and Watson (challenges to statements component; both under submission)

- Recent Developments. On remand in the Able case, United States District Judge Nickerson (E.D.N.Y.) recently declared unconstitutional the acts component of the policy. The Department of Justice has announced that it will appeal this ruling to the Second Circuit Court of Appeals.
- Note. A number of "old policy" cases are still pending, but this litigation is generally winding down.

**Talking Points Regarding Sexual Harassment Guidance Published by the U.S.
Department of Education's Office for Civil Rights
July 21, 1997**

Background

The Office for Civil Rights (OCR) of the U.S. Department of Education enforces federal civil rights laws, including Title IX, which prohibits discrimination on the basis of sex.

On March 13, 1997, OCR published in the Federal Register final policy guidance ["policy"] regarding sexual harassment of students, the first such publication on the subject of sexual harassment in the agency's history. The policy was published after considerable consultation with groups representing students, schools, teachers and school administrators, as well as with civil rights groups.

Policy specifically addressing gay and lesbian students

Discrimination on the basis of sexual orientation is not prohibited by Title IX. However, OCR's policy recognized that Title IX covers sexual harassment directed at gay or lesbian students. As the policy recognizes, this kind of harassment can be manifested in several ways, as long as the conduct in question is conduct "of a sexual nature." The policy recognized:

- "[I]f a male student or a group of male students target a lesbian student for physical sexual advances" because she is a lesbian, and this harassment is sufficiently severe, persistent or pervasive to affect her educational environment, then Title IX would apply.
- If a male student subjects another male student to inappropriate sexual advances or other conduct of a sexual nature, and this harassment is sufficiently severe, persistent or pervasive to affect his educational environment, then Title IX protects that student. (OCR has resolved cases in which male students were subjected to severe, persistent, or pervasive conduct of a sexual nature (e.g., pulling down his pants "to see what is down there," taunts about his alleged sexual activities or behavior), and ruled that it did not matter if the harassers were other male students or females.)
- If students heckle another student with comments based on the student's sexual orientation (e.g., "gay students are not welcome at this table in the cafeteria"), such conduct is not sexual harassment under Title IX.

The policy also recognized that homosexual sexual harassment is prohibited by Title IX, e.g., when a homosexual teacher or student seeks sexual favors from a student of the same sex.

The policy cited the Nabozny v. Podlesny, 92 F.3d 446 (7th Cir. 1996) with approval in

the context of a discussion regarding recourse beyond Title IX to address the problem of discrimination against gay and lesbian students. OCR also refers allegations of "hate crimes" related to sexual orientation (beyond the purview of Title IX) to the Department of Justice.

The general scope of the policy

The policy confirms that Title IX protects students from harassment by school employees, other students at the school, and third parties (e.g., students visiting from another school). It applies to any school or educational institution that receives Federal financial assistance, including public schools, colleges, universities. And it includes all the academic, educational, extra-curricular, athletic, and other programs of the school, whether they take place in the facilities of the school, on a school bus, at a class or training program sponsored by the school at another location, or elsewhere.

THE CLINTON ADMINISTRATION

A Record of Respect for Gay and Lesbian Americans

"My Administration has taken more steps than any previous in bringing the gay and lesbian communities to the table. I am proud of my record, and it is a record to build on. I remain dedicated to ending discrimination and to protecting the civil rights of every citizen. In public life, I have worked relentlessly to empower people who historically have been discriminated against based on race, class, gender, disability, or sexual orientation. I remain committed to achieving that goal."

President Clinton

Fighting Discrimination

- Under President Clinton, federal agencies implemented non-discrimination policies that include gays and lesbians and he issued an executive order mandating that security clearances no longer be denied based on sexual orientation.
- President Clinton endorsed and fought for passage of the Employment Non-Discrimination Act, a bill to outlaw discrimination in hiring, firing and promotions based on sexual orientation, making him the first U.S. president ever to back civil rights legislation for gays and lesbians.
- President Clinton successfully fought for the repeal of the Dornan amendment, which would have required the expulsion of all HIV-positive military service members regardless of their ability to do their jobs.
- President Clinton signed the Hate Crimes Sentencing Enhancement Act.
- President Clinton strongly opposed anti-gay ballot initiatives in several states.
- President Clinton directed the Justice Department and the Equal Employment Opportunity Commission to vigorously prosecute those who discriminate against PWAs, leading to actions against health care providers and facilities that violate the Americans with Disabilities Act.

Welcoming Our Contributions to Public Service

- President Clinton has appointed the most inclusive Administration in history -- over 100 openly gay and lesbian appointees, including former Assistant HUD Secretary Roberta Achtenberg and Director of the U.S. Patent and Trademark Office Bruce Lehman, the first openly lesbian woman and gay man to be confirmed by the U.S. Senate, and Deborah Batts, the first openly gay or lesbian federal judge in the nation's history.

- President Clinton named the first Presidential Liaison to the gay and lesbian community.
- President Clinton appointed openly gay physician Scott Hitt to head the President's Council on HIV/AIDS, along with several other openly gay, lesbian and HIV positive Council members.

Working to Save Lives and Improve Health Care

- President Clinton increased public health spending for HIV/AIDS programs by over 56%, including a 186% increase for Ryan White CARE programs and a 40% rise for AIDS-related research.
- President Clinton fought to protect Medicaid from hundreds of billions of dollars in proposed cuts by the Congress. These cuts would have been devastating to the 50% of PWA's relying on Medicaid.
- President Clinton signed a law requiring that women, including lesbians and minorities, are included in National Institute of Health supported research and the Centers for Disease Control funded pilot projects to develop effective outreach strategies to reach lesbians and held the first federally sponsored meeting on lesbians and HIV.
- President Clinton invited lesbian health advocates to policy formulation meetings for the first time in history.
- President Clinton convened the National Task Force on AIDS Drug Development, accelerated the approval of protease inhibitors, and removed dozens of bureaucratic obstacles to the effective and decent treatment of people with AIDS.
- President Clinton established the Office of AIDS Research at the National Institute of Health, created the Office of National AIDS Policy, and convened the first White House summit on HIV/AIDS.
- President Clinton created the first Office of AIDS Housing at the Department of Housing and Urban Development.
- President Clinton created a permanent Office of Women's Health Research, and increased funding for women's health issues, including a 65% increase in breast cancer-related funding.
- President Clinton's Department of Health and Human Services sponsored a national conference to examine the causes of and solutions to gay youth suicide.

THE CLINTON ADMINISTRATION
Meeting America's Challenges and Protecting Our Values
Paid for by Clinton/Gore '96



THE CLINTON ADMINISTRATION ON HIV/AIDS

"Our common goal must ultimately be a cure, a cure for all those who are living with HIV, and a vaccine to protect all the rest of us from the virus. A cure and a vaccine, that must be our first and top priority."

President Clinton
White House Conference on HIV/AIDS

In his four years in office, President Clinton has sharply increased the Federal government's commitment to ending the epidemic of HIV/AIDS that has already taken the lives of more than 300,000 Americans. He has done that by:

- Increasing overall AIDS funding by more than 56% in four years.
- Creating a White House Office of National AIDS Policy to bring greater direction and visibility to the war on AIDS.
- Convening the first-ever White House Conference on HIV/AIDS and appointing the Presidential Advisory Council on HIV and AIDS.
- Increasing funding for the Ryan White CARE Act 186% in four years to nearly \$1 billion.
- Tripling federal funding for the AIDS Drug Assistance Program to help those without insurance coverage obtain prescription drugs.
- Strengthening the Office of AIDS Research at NIH and vesting it with new authority to plan and carry out the AIDS research agenda.
- Accelerating AIDS drug approval to record times. In four years, FDA has approved 16 new AIDS drugs and 3 new diagnostic tests.
- Doubling funding for Housing Opportunities for People with AIDS.
- Winning the fight to preserve the Medicaid guarantee of coverage for the more than 50% of people living with AIDS who rely on Medicaid for health coverage.
- Revising eligibility rules for Social Security Disability Insurance to make it easier for people living with HIV to qualify for benefits.
- Signing the Kennedy-Kassebaum Health Insurance Portability and Accountability Act, which bans insurance discrimination against people with pre-existing medical conditions including HIV/AIDS.
- Launching a four-year \$100 million effort to develop topical microbicides to allow people to protect themselves from HIV.
- Establishing the HIV prevention community planning partnership, which empowers local communities to make decisions about the direction of AIDS prevention programs.
- Launching the Prevention Marketing Initiative, focusing on the risk to young adults (18-25) with frank public service announcements recommending sexual abstinence and, for those who are sexually active, the correct and consistent use of latex condoms.
- Vigorously enforcing the Americans with Disabilities Act, which prohibits discrimination against people with HIV/AIDS. More than 800 charges of AIDS-related discrimination have been settled in four years.
- Leading the fight to repeal the discriminatory "Donnan Amendment," which would have discharged all HIV-positive military personnel.
- Creating the Forum for Collaborative HIV Research to improve knowledge of HIV treatment methods.
- Working with AIDS activists to protect the rights of immigrants with HIV and PLWA's enrolled in managed care plans.
- Creating the Advisory Commission on Consumer Protection and Quality in the Health Care Industry to increase consumers' rights.

THE CLINTON ADMINISTRATION
Meeting America's Challenges and Protecting Our Values
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Meeting with Gay and Lesbian Leaders, July 22, 1997

✓
Gloria
Nieto
Santa Fe

✓
Brian
Bond
D.C.

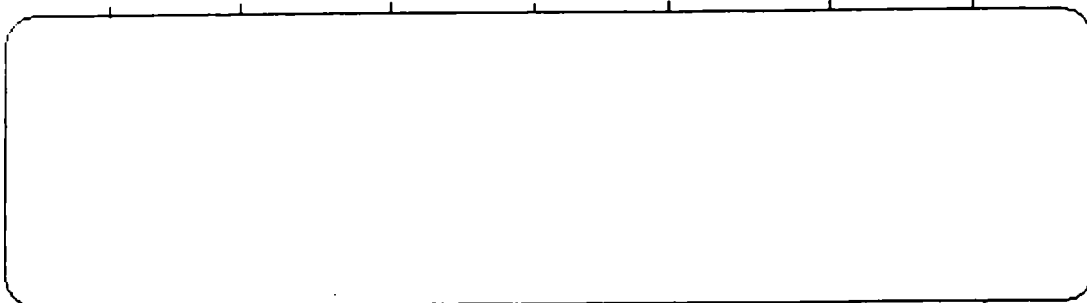
✓
Lori
Jean
Los Angeles

✓
Elizabeth
Birch
D.C.

✓
Jeff
Soref
New York

✓
Dale
McCormick
Augusta, ME

✓
Kevin
Cathcart
New York



Martin
Ornelas
Quintero
✓ D.C.

Kerry
Lobel
D.C.
✓

Kevin
Jennings
New York
✓

The
President

Verna
Eggleston
New York
✓

Tim
Gill
Denver
✓

Nancy
McDonald
Tulsa
✓